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DIGEST

OF THE

LAWS OF NEW HAMPSHIRE

PERTAINING TO

COMMON SCHOOLS,

WITH

DECISIONS, FORMS AND STATUTES.

REVISED EDITION.

BY CHARLES R. MORRISON.

CONCORD:

PUBLISHED BY J. B. SANBORN,
1876.

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DIGEST OF SCHOOL LAWS.

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1. **AMOUNT REQUIRED BY LAW.** The selectmen in each town shall assess, annually, upon the polls and ratable estate therein, a sum to be computed at the rate of three hundred and fifty dollars for every dollar of the public taxes apportioned to such town, and so for a greater or less sum.—Laws of 1870, c. 35.

14. STATE LANDS. By act of July 3, 1868, the proceeds of the sale of the state lands are set apart as a school fund, the annual income thereof to be applied to the purposes of common school education as the legislature may from time to time determine.—Laws of 1868, p. 153, c. 21.

15. RAILROAD MONEY. Under s. 8, c. 57, Gen. Sts., which provides that railroad money received from the state treasurer “shall be appropriated as other town money,” towns may apply the whole or a part to common schools.

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1. TOWNS MAY DIVIDE, WHEN. Towns *not divided* into school districts may be so divided by vote of the town, distinctly defining each district by suitable boundaries duly recorded.—Gen. Sts. p. 163, c. 78, s. 1.

(a) A division by a committee appointed by the town for that purpose is not sufficient without a vote adopting their report.—3 R. 168; 32 R. 129; 7 Met. 218. And our statute seems to require that the report should be recorded, although it is otherwise in Massachusetts (3 Allen, 409), in order that the boundaries may appear upon the record.

(b) A division of a town into school districts must be *territorial*, as extending to a certain highway, or by other monuments, and not merely by the names of owners or occupants.—13 R. 139; 12 Pick. 206; 7 Met. 218; 7 Gray, 244. But if a division by sufficient boundaries has been recorded, a subsequent division, which refers to it as recorded for the boundaries, may be sufficiently certain, although the first division was for *other reasons* invalid.—32 R. 118, 129.

(c) It is also held that the division must include the whole town.—11 Gray, 433; 4 do. 46; 4 Cushing, 250; 12 Pick. 206.

A town line cannot be settled by the acts of adjoining owners.—25 Vt. 645.

(d) The article in the warrant may be:

“To act upon the subject of dividing the town into school districts.”

The form of the division may be:

“Voted, to divide the town into — school districts, to be bounded, known and called as follows: School District No. 1,—beginning at the north-east corner of the farm of ——, thence, etc., etc., [giving metes and bounds]. School District No. 2,—beginning at, etc., etc.

(e) Any town by adopting chapter eight of the Laws of 1870 may abolish its districts.—*Child v. Colbourn*, 54 R. 71.

ARTICLES IN THE WARRANT UNDER THE ACT OF 1870.

Art. —. To see if the town will adopt chapter eight of the Laws of 1870, and abolish the school districts in said town.

Art. —. To make provision for the appraisal of all the school-houses, land, apparatus, and other property owned and used for school purposes which the school districts in said town might lawfully sell and convey.

Art. —. To elect a board of education of not less than three persons, as provided by the third section of chapter eight of the Laws of 1870.

VOTES UNDER THE ABOVE ARTICLES.

Voted to adopt, &c. (following the article).

Voted that the selectmen [or A, B, C,] be a committee to appraise, at its just value, all the school-houses, &c. (following the article).

Voted that A, B, C constitute a board of education under said act.

(f) *Re-establishing*. The act of July 7, 1874 (Laws of 1874, c. 55), authorizes towns that have abolished school districts to re-establish them within two years from the passage of the act, by a two-thirds vote.

2. WHEN TOWN SHALL BE A DISTRICT. Any town not divided into districts, or in which all the districts may be re-united, shall be a district; but its business relating to schools may be transacted in town meeting.—*id.* s. 2.

3. EXISTING DISTRICTS. All existing districts, however organized, shall continue to be such, subject to be altered or discontinued according to existing laws.—*id.* s. 3.

(a) Perhaps this section applies to districts existing *de facto* only, as well as to those that have a legal existence.—18 R. 268; Digest, p. 577, s. 2; 9 Shepley, 564; but see 4 Cushing, 250.

4. DISTRICTS MAY CHANGE LINES. The lines of districts may be changed, and adjoining districts in the same or different towns may be united, by concurrent vote of the districts interested, upon such terms as they may agree; and in like manner the original lines and districts may be restored.—*id.* s. 4.

5. COMMITTEE, ETC., MAY CHANGE LINES. The school committee and selectmen of any town divided into districts, upon petition of persons interested, after hearing the parties, may change the lines of adjoining districts, and may constitute new districts, or unite the whole or part of any district to an adjoining district, *a majority of each board concurring therein*, and their decision (1) in writing being recorded on the town records.—*id.* p. 164, s. 9.

(1) The proceedings will be similar in form to those given in s. 10, *post*. The decision of the board is judicial and final and will not be revised upon a bill in equity.—51 R. 423.

6. AN ARTICLE IN THE WARRANT, under s. 4, *ante*, may be:

“To act upon the subject of uniting with school district No. —, [(1) in the town of —,] to form one school district, and to appoint any committees for that purpose.”

(1) If both districts are in the same town, omit this.

7. AN ARTICLE FOR A CHANGE OF THE DISTRICT LINES may be:

“To act upon the subject of changing the line between said district and school district No. —, [(1) in the town of —,] and appoint committees for that purpose.”

8. THE SUBSEQUENT PROCEEDINGS IN EACH DISTRICT may be:

“Voted to appoint — — a committee to confer with any committee that may be appointed by school district No. —, [(1) in the town of —,] upon the subject of a union of districts, and report to this meeting at the time and place to which the same may be adjourned.

“Voted to adjourn this meeting until the — day of —, instant, at — o'clock in the — noon, at the school-house of this district.

“We, the undersigned, committees respectively of school district No. —, in the town of —, and school district No. —, in the [said] town of —, having fully considered the matter referred to us, recommend that said districts be united and form one school district, upon the following terms of union: [Insert the terms of union, making full provision in relation to debts, property, etc.]

“Witness our (2) hands, this — day of —, 18—.

— — — } Committee of
— — — } School Dist.
— — — } No. — in —.

— — — } Committee of
— — — } School Dist.
— — — } No. — in —.

“Voted to accept the joint report of — — —, — — —, committees, respectively, of this school district and school district No. —, in the town of —, and that said districts be hereby constituted one school district upon the terms recommended in said report.”

(1) See s. 6 (1).

(2) A vote accepting and adopting the report of a minority will be valid, since the report is *advisory* and not final.

Proceedings for *changing* the line may be similar, except that the report should describe the new lines by metes and bounds.

9. THE SCHOOL COMMITTEES AND SELECTMEN of *adjoining* towns, upon petition of persons interested, after hearing the parties, may unite the whole or parts of adjoining dis-

tricts in such towns into one district, and upon like proceedings restore them to their former position.—*id.* p. 165, s. 5.

10. THE FORM OF A PETITION under s. 9 may be:

*To the School Committees and Selectmen of the towns
of _____:*

The undersigned, residing upon the territory now constituting school district No. 6, in the town of _____, and school district No. 9, in the town of _____, believing that their interest (1) and the public good will be promoted thereby, pray that after due notice and hearing, you will unite said districts into one district and (a) make an equitable apportionment of the property and debts of said districts, and find the balance, if any, equitably due from either of said districts to the other, and order the payment thereof within a time to be by you limited.

(b) Dated this ____ day of ____ 18____. [Signed.]

(1) The *particular* interest need not be stated.—34 R. 315; Digest, p. 577, s. 9.

II. ORDER OF NOTICE upon both districts and service and return as follows:

A hearing upon said petition is hereby appointed at —, in said —, on the — day of — next, at — o'clock in the —noon; and it is ordered that the petitioners give notice of said petition and hearing by posting an attested (1) copy of said petition, and this order thereon, fourteen days at least before the said day of hearing, on the door of the school-house of each school district within mentioned; and leaving a like copy at the abode of the clerk of each of said districts, a like time before said day of hearing.

Given under our hands this — day of —, 18—.

— — — } School Committee of —.

____ } Selectmen of ____.

— — — } School Committee of —.

____ } Selection of _____

(1) The copy may be attested by the person serving it:

Attest: *[Signature]*

I hereby certify that on the — day of —, 18—, I posted an attested copy of said petition and order, on the door of the school house in each school district within mentioned, and on the same day I left a like copy at the abode of — —, the clerk of said district No. 6, and a like copy at the abode of — —, the clerk of said district No. 9.

— —.

G— ss. —, 18—. Then appeared — — and made oath that the above certificate, by him signed, is true.

Before me,

— —, Justice of the Peace.

12. THE FINAL ORDER, signed by a majority of the committee and a majority of the selectmen of *each* town, may be as follows:

(a) Upon the foregoing petition we appointed a hearing and gave notice thereof as aforesaid, and on the — day of —, 18—, at — o'clock in the — noon, at —, in the town of —, the time and place appointed [here insert the names of those who appeared as parties], appeared as parties [and said hearing was adjourned to the — day of —, 18—, at — o'clock, in the — noon, at —, in the town of —]; and having heard all parties who desired to be heard, and examined them and their witnesses under *oath*, we are of opinion that the interest of the petitioners and the public good will thereby be promoted, and do therefore unite said districts into one district, to include the whole territory of both districts. We also make an equitable apportionment (b) of the property and debts of said district as follows: The school-houses and fixtures and apparatus appertaining to the same, heretofore belonging to either of said districts, shall be the property of said new district; the debts now outstanding shall be paid by the district contracting the same, and district No. 6 shall pay to said district No. 9 the sum of — dollars within — days, which sum we find equitably due from said district No. 6 to said district No. 9. Each of said districts shall collect and retain to its own use all debts now due to the same.

Given under our hands this — day of —, 18—.

_____, } School Committee of _____.
 _____, }
 _____, } Selectmen of _____.
 _____, } School Committee of _____.
 _____, }
 _____, } Selectmen of _____.
 _____, }

(b) Their action is valid without an apportionment.—55
 R. 453.

(c) The town clerk of each town should record the entire proceedings, and certify the record of each separate part as follows :

Received and recorded —, 18—, at — o'clock in the —noon.

A true record. Attest :

_____, Town Clerk.

(d) The filing upon the papers may be :

Received and recorded, and filed —, 18—.

By me,

_____, Town Clerk.

In all such cases a majority of the school committee and a majority of the selectmen, of each town, must concur, and a record of the proceedings be made in the books of each town, or their action will be of no effect.—Gen. Sts. p. 163, c. 78, s. 6, as amended by s. 24, c. 1, of the Laws of 1868.

13. DEEMED IN WHAT TOWN. Every district including land in different towns shall be deemed a district of that town in which most of the voters therein reside at its formation; but the district may, by vote recorded in both towns, elect to which town they will belong.—Gen. Sts. p. 164, c. 78, s. 7.

14. FORM OF PETITION, ETC., TO RESTORE DISTRICTS.

To the School Committees and Selectmen of the towns of _____:

The undersigned, residing in the school district known as the _____ district, formed by the union of school district No. 6, in the town of —, and school district No. 9, in the town of —, believing that their interests and the public

good will be promoted thereby, pray that after hearing the parties you will restore said districts to their former position, and that you will make an equitable apportionment of the property and debts of the districts affected by such proposed change, and find the balance, etc. [as in (a) s. 10, *ante*].

Order of notice, etc., as in s. 11, ante (1).

Final order as in s. 12, ante, to the word "promoted" and then say, "and we therefore restore said districts to their former position; we also make an equitable apportionment of the property and debts of said districts affected by this change, as follows: [Here make an entire disposition of the property and debts of any and all of the districts affected by the change, and find the balance as in (b) s. 12, ante.]

Date, signature and record, as in ss. 11, 12, ante.

(1) When the union district does not include the *whole* of both districts, the order of notice should also be to the district or districts of which a portion only was taken and all the proceedings varied accordingly.

15. PROCEEDINGS TO UNITE PARTS OF DISTRICTS in adjoining towns may be as in ss. 10, 12, *ante*, except that the petitioners should ask "that a part of said district No. 6 may be united with a part of said district No. 9, to form one district, to be bounded and described as follows:" [giving the boundaries] and the final order would state, that "we therefore unite parts of said districts to form one district, bounded," etc.

16. AS IF IN BUT ONE TOWN. The selectmen, school committee and collector of the town to which such district *may be deemed* to belong, shall have the same powers in respect to such district as if the whole were in that town.—*id.* s. 8.

17. SCHOOL MONEY OF. Every district situate in two or more towns shall be entitled to its just proportion of school taxes, income of school funds and literary fund in each town, according to the valuation of persons and property taxable therein.—*id.* s. 13.

18. A PETITION FOR A CHANGE OF LINES of districts in the same town may be as follows:

To the School Committee and Selectmen of _____:

The undersigned, residing upon the territory now constituting school districts Nos. 5 and 6 in said town, believing that their interest and the public good will be promoted thereby, pray that, after due notice and hearing, you will change the lines of said districts and annex to said district No. 5 a part of said district No. 6, described as follows: Beginning at

[here give a definite description by metes and bounds and known monuments], and that you make, etc. [as in (a) s. 10, *ante*].

Dated at said ——, this — day of —, 18—.

[Signers.]

Order of notice upon both districts, service and return, as in s. 11, *ante*. An appearance without objection will be a waiver of all objection to a defective notice.—55 R. 452.

The *final order*, signed by a majority of *each* board, as in (a) s. 12, to the word *oath*, and then :

We are of opinion that the interests of the petitioners and the public good will thereby be promoted, and we therefore change the lines of said districts by annexing to said district No. 5. a part of said district No. 6, described as follows: Beginning at [here describe by meets and bounds and known monuments (1)]. We also make an equitable apportionment, etc. [as in (b) s. 12, *ante*].

Given under our hands at said ——, this — day of —, 18—.

_____, } School Committee of ——.
_____, }

_____, } Selectmen of ——.
_____, }

Recording and filing as in s. 12 (c) (d).

(1) They have power to disregard the particular line prayed for, and also the wishes of a majority of the districts.—34 R. 315; Digest, p. 577, s. 10.

19. A PETITION FOR NEW DISTRICTS in the same town may be :

To the School Committee and Selectmen of the town of ——:

The undersigned, residing upon the territory constituting school district [or "districts"] No. — in said town, believing that their interest and the public good will be promoted thereby, pray that, after due notice and hearing, you will out of said territory constitute new school districts as follows: [describe the districts as desired with their proposed boundaries] and that you will make an equitable apportionment, etc. [as in (a) s. 10, *ante*].

Order of notice to all the districts interested, and service and return as in s. 11.

Final order as in s. 12, *ante*, to the word *oath*, and then:

We are of opinion that the interest of the petitioners and the public good will thereby be promoted, and we therefore out of said territory constitute new districts to be known, bounded, and described as follows: [here insert each with distinct boundaries] and we also make an equitable apportionment, etc. [as in (b) s. 12, *ante*].

Date, signature and recording as s. 12, *ante*.

20. A PETITION TO UNITE the whole or a part of a district to an adjoining district, in the same town, may be as in s. 10, *ante*, the necessary changes being made.

Order of notice, etc., as in s. 11, *ante*.

Final order, as in s. 12, to the word "promoted," and then, "and we therefore unite the whole (1) of said district No. —, to said district No. —; and we make," etc. [as in (b) s. 12, *ante*].

(1) If the whole is not annexed, the part taken should be described by distinct boundaries.

21. PROPERTY AND DEBTS TO BE APPORTIONED. The school committee or committeees, and selectmen, by whom any district or districts in the same or in adjoining towns are divided or united, or the limits thereof in any way changed, shall make an equitable apportionment of the property and debts of the districts affected by such change (1) and find the balance, if any, equitably due from either of said districts, and order the payment of such balance within a time to be by them limited.—Laws of 1868, c. 1, s. 25.

(1) This is to be done upon *every* change, however slight; but if the change is inconsiderable, the order may well be, that the property and debts of the districts shall remain as before, *except* as otherwise provided by the order.

If no apportionment is made, the title remains as before.—1 Allen, 49; 23 Pick. 68; 48 Maine, 32. See 34 R. 323; 55 R. 452; s. 37, *post*.

22. ASSESSMENT OF TAX. If such balance shall not be paid within the time so limited, the selectmen of the town in which the delinquent district is situate, or deemed to be situate, shall, upon written application (1) of the prudential committee, or agent of the district entitled to the money, assess

a tax for the amount upon the polls and estate in the delinquent district, and cause the same to be collected and paid to the district entitled thereto.—Laws of 1868, c. 1, s. 26.

(1) Sections 10, 11 and 12, of c. 78, Gen. Sts., are repealed by s. 27, of c. 1, of the Laws of 1868.

The petition to the selectmen may be as follows:

To the Selectmen of the town of ——:

A W, prudential committee of school district No. — in said town, respectfully represents that on the — day of — last, school district No. —, in said town, was by the school committee and selectmen of said town duly ordered to pay to said school district No. —, the sum of — dollars within — days from that date, as the balance equitably due upon an apportionment by them of the property and debts of said districts, and which sum has not been paid although the time limited for its payment is past.

Wherefore he requests you to assess a tax for the amount, upon the polls and estate in said delinquent district, and cause the same to be collected and paid to said district No. —.

Dated at said ——, this — day of —, 18—.

_____, Prudential Committee.

23. NOTICE of such petition is unnecessary; the right to assess and collect the tax being dependent upon a proper application, and non-payment, and the *legality of the previous order.*

24. UPON WHOM ASSESSED. If the limits of the delinquent district have been changed, the assessment should be upon the polls and estate within its limits *as changed*. Districts that have been *united* may, for the purpose of assessing a tax ordered to be paid by either to the other, be considered as continuing with their *original limits*. See s. 37, *post*. But where a district, formed from two or more, has been ordered to pay a certain sum to one of the old districts, the tax should be assessed upon the new district *as a whole*.

25. DISTRICTS PRESUMED LEGAL. School districts that have exercised (1) the privileges of a district for a year shall be presumed to be legally organized.—Gen. Sts. p. 164, c. 8, s. 14.

(1) It is presumed that this provision is prospective, and applies whenever the year has elapsed.—46 Maine 206; 52 do. 522.

It has been held in Mass. that a legal organization *pending a suit* in the name of the district will enable the district to ratify the suit.—23 Pick. 62.

26. ALL DISTRICTS LEGALLY ORGANIZED ARE CORPORATIONS with power to sue and to be sued, to hold and dispose of real and personal property for the use of the schools therein, and to make necessary contracts relating thereto.—*id.*

(a) School districts, being enabled by law to sue and be sued, have, in consequence, the power to appoint and instruct agents to prosecute and defend; or to withdraw defences and to confess judgment.—47 R. 492; 43 R. 181; Digest, p. 201, s. 155; 52 R. 298.

(b) They have the powers expressly given to them, and such implied powers as are necessary to enable them to perform their duties, and no more.—Bell, J., 28 R. 62.

(c) A school district cannot hold lands in trust for the support of the ministry, since the object is foreign to the purposes of its creation.—35 R. 456; but may for schooling.—19 Vt. 210.

(d) Votes of school districts are to be shown by the *record*.—Digest, p. 201, s. 152; 4 Greenl. 14; 12 Met. 105; 21 Pick. 75; 38 Maine, 164; 17 Vt. 337.

(e) Inhabitants of a school district have as individuals no right to appear in an action against the district.—10 Met. 462. But they may proceed in chancery against the district or others in a proper case.—Digest, p. 193, s. 115. And it has been held that such inhabitants may make a *tender* to a creditor of the district, because of their ultimate liability.—11 Maine, 188; 10 Met. 462.

27. ANY DISTRICT MAY HIRE MONEY FOR BUILDING THEIR SCHOOL-HOUSES, not exceeding four fifths of the cost thereof, which shall be payable within five years, in equal portions, with the interest.—*id. s. 15.*

(a) Officers and agents signing their own names to a note for a school district, will, if not duly authorized to bind the district, be personally liable as promisors upon the note, provided the note, after rejecting what they had no authority to put there, imports a personal undertaking; and this may sometimes occur, when they have no intention of being personally bound.—44 R. 186; Digest, p. 25, ss. 137, 138. If it is understood that they are not to be answerable if they fail to bind the district, the note may be in this form:

"School district No. 6, in Warren, promises to pay," etc., and the note be signed, "School district No. 6, in Warren," by A B, etc.—26 R. 352; Digest, p. 25, s. 140.

A person *taking* a note in this form ought to be satisfied of the legality of the proceedings of the district.

28. ANNUAL TAX. The selectmen, on application of the creditor, and on the filing of a copy of the vote and note of the district, may, in each annual tax, assess on the district one fifth of such debt and the interest, and cause the same to be collected and paid to the town treasurer, who shall pay the same on demand to the creditor.—*id. s. 16.*

(a) There can be no assessment if the vote has been reconsidered (although at an adjourned meeting or upon a new call) and the selectmen certified of the fact.—Digest, p. 579, ss. 38-41; 2 Cush. 419, 426; 6 Met. 497, 509; 14 Allen, 163; 4 Mass. 230.

29. INSURANCE. Any school district may procure its buildings and property to be insured against fire, and raise money therefor, and by their agent give their premium note; but no

part of the school money required to be raised by law shall be taken to pay for insurance.—*id.* s. 17.

30. ANY DISTRICT MAY RAISE MONEY FOR THE SUPPORT OF SCHOOLS, in addition to the tax required by law, and to pay debts of the district, which, on certificate by the clerk, shall be assessed and collected as other school taxes.—*id.* p. 165, s. 18.

31. EFFECT OF CERTIFICATE. The certificate of the clerk will not protect the selectmen unless the district is either proved or may be presumed to have been legally constituted, nor unless the meeting was legally called, and the vote sufficient in form and authorized by law.—42 R. 102; 45 R. 385; Digest, p. 578, s. 36; 4 Gray, 42; 10 Cush. 418.

Nor is the clerk, if he has acted in good faith, liable for falsely certifying that the vote was passed “at a legal meeting.”—17 Pick. R. 208. The selectmen should look into the proceedings of school districts before assessing a tax for *any* purpose, and ascertain if they have been legal. If the vote has been reconsidered—see (a) s. 28, *ante*.

32. SCHOLARS FROM OUT OF THE DISTRICT. Each district may determine upon what terms scholars from other (1) districts or towns may be admitted into their schools. If the district neglect to make such determination the prudential committee may do it.—*id.* s. 19.

(1) A temporary residence, merely for the purpose of attending the school, gives no right to attend against the will of the district.—23 R. 507; Digest, p. 581, s. 78.

33. SCHOLARS DIVIDED. Any district may, by vote or by a committee, divide the scholars according to their age, acquirements and residence, or either, and direct under what teacher they shall be instructed.—*id.* s. 20.

34. BY SCHOOL COMMITTEE. If a district refuse or neglect to make such division, it may be made by the school committee.—*id.* s. 21.

35. UNION SCHOOLS. Two or more contiguous districts (1) in the same or different towns, may, by concurring votes, unite (1) in the support of their schools, and the school money of such districts may be expended in the support of schools kept in either district, agreeably to such (2) votes.—*id.* s. 22.

(1) As to uniting with an academy or other literary institution—see Laws of 1874, c. 69.

An (2) article for such purpose may be :

“ To see if this district will unite with district No. —, in the town of ——, in the support of schools, and expend the school money of this district for that object, and appoint a committee for such purpose.”

The vote may be :

“ *Voted*, that it is expedient to unite with district No. —, in the town of ——, in the support of schools, and that —— be a committee to agree with any committee that may be appointed by said district, upon a plan by which the school money of said districts shall be expended for that object, and report to this meeting, etc.

The joint report, as in s. 8, *ante*, being accepted and adopted and recorded in each district, will consummate the union.

36. AND SCHOOL-HOUSES. While such schools are so united, either district may raise money to build, repair or remove school-houses and their appurtenances in either district.—id. s. 23.

37. DISTRICTS CONTINUED, HOW LONG. Every school district shall remain a body corporate so long as is necessary for the purpose of maintaining and defending suits, receiving and conveying property, voting taxes to pay its debts, and settling its concerns.—id. s. 24; s. 21, *ante*; 52 R. 298.

CHAPTER III.

MEETINGS AND OFFICERS OF SCHOOL DISTRICTS.

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1. MEETINGS, HOW CALLED. Meetings of school districts shall be warned by the prudential committee, by warrant addressed to the inhabitants of the district qualified to vote in district affairs, stating *the time and place of meeting and the business (1) to be acted upon*.—Gen. Sts. p. 165, c. 79, s. 1.

(1) A school district cannot act except upon articles distinctly stated in the warrant.—55 R. 311.

(a) The district can confer no authority except at a legal meeting.—48 Maine, 32; 42 R. 102; Digest, p. 578, s. 63.

But it may at a legal meeting upon a sufficient warrant ratify and confirm the proceedings of a previous meeting.—38 Maine, 164; 4 Cush. 401. See s. 14, *post*.

In certain cases presumptions will be made against school districts as in case of natural persons, and they may be estopped.—30 R. 25; 44 R. 399; 32 R. 118; Digest, p. 201, s. 147.

2. POSTING WARRANT. Such warrant shall be served by posting a copy thereof, *attested by the committee*, at the door of the school-house, if there be any in the district; otherwise at one or more public (1) places in the district, fourteen (2) days at least prior to the day of meeting.—*id.* s. 2.

(1) *Public place.* The words "public place" mean such places as, in comparison

with others in the same town, are those where the inhabitants and others most frequently meet or resort.—40 R. 173; Digest, p. 366, s. 54.

A meeting-house is *prima facie* a public place, and a return of a posting upon a meeting-house need not describe it as a public place; but if of little or no public resort in comparison with other places in the city or town, it is not to be deemed a "public place."—40 R. 188. A shoemaker's shop, in Deerfield, was held not to be a "public place."—3 R. 178; 40 R. 187.

In new and thinly settled towns and places, there may be neither post-office, church, tavern nor store; and the school-house, mill or mechanic's shop may be properly regarded as the most public place. And the same remark may, under proper circumstances, apply to the bridge, or the guide-board, or the box by the road-side where newspapers are left for subscribers, and to posts and boards erected by public authority for posting notices, where the evidence shows that no more public places can be found.—Bell, C. J., 40 R. 188.

(2) There must be fourteen days *between* the day of posting and the day of meeting. When time is to be reckoned from any day, date, act done, or the time of any act done, either by force of law or by virtue of any contract, made since the twenty-third day of December, 1842, such day, date, or the day when such act is done, shall not be included in the computation.—Gen. Sts. p. 42, c. 1, s. 33.

3. WHEN TO BE CALLED. The prudential committee shall issue a warrant for the annual meeting, and post a copy thereof, *on or before the second Tuesday of March*, and for special meetings, upon application (1) therefor of three or more voters of the district, *within ten days* after such application is made.—id. s. 3.

(1) He probably cannot call a special meeting upon his own motion without an application.

4. JUSTICE MAY CALL. If the prudential committee neglect to issue a warrant for such annual or special meeting, and to post a copy thereof within the respective times limited therefor, a justice, upon a like application, (1) shall call such annual or special meeting, by issuing his warrant and causing an attested copy of it to be served in the manner before prescribed.—id. p. 166, s. 4.

(1) It has been held that application may be made to the justice and his warrant be dated *within the ten days*, provided it is not *posted* until after that time.—17 R. 492. But see 44 Maine, 374.

5. CERTIFICATE AND RETURN. The warrant, with a certificate thereon, verified by oath that a copy thereof was posted, and at what time and place, shall be given the clerk of the district, *at or before* (1) the time of meeting, and shall be recorded (2) by him in the records of the district.—id. s. 5.

(1) And hence if there is no clerk an application should be made to the selectmen to appoint one.

(2) The clerk should first record the warrant and the certificate of posting, with L. S. for the place of the seal, and attest the record of each, as—
Received March —, 18—, and recorded.

A true record.

Attest:

— — —, Clerk of District.

6. A WARRANT when issued by the prudential committee may be :

THE STATE OF NEW HAMPSHIRE.

To the Inhabitants of School District No. —, in the town of ——. qualified to vote in district affairs :

You are hereby notified to meet at (1) the school-house, in said district, on the — day of March instant, at — o'clock (2) in the — noon, to act upon the following subjects :

- i. To choose a moderator for the ensuing year.
- ii. To choose a clerk for the ensuing year.
- iii. To choose a prudential committee, not exceeding three, for the ensuing year.
- iv. To hear the reports of agents, auditors, committees or officers heretofore chosen, and pass any vote relating thereto.
- v. To choose agents, auditors or committees in relation to any subjects embraced in this warrant.
- vi. To see, etc.

Given under my hand (3) at said ——, this — day of ——, 18—.

— — — — —, Prudential Committee.

(1) This implies that the meeting is to be *within the walls* of the school-house.—13 Maine, 466.

(2) The hour of the meeting should be stated.—17 Vt. 337; 16 do. 439.

(3) A seal is unnecessary.—21 R. 425; Digest, p. 600, s. 118.

7. THE POSTING is to be of a copy attested as follows :

A true copy of warrant.

Attest:

— — — — —, Prudential Committee.

The certificate of posting may be as follows :

— — — — —, 18—. I certify that on the — day of ——, 18—, I posted a copy of the within warrant, attested by the prudential committee, at the door of the school-house in district No. —, in said town.

G — ss. — — — — —, 18—. Then — — — — made oath that the above certificate by him signed is true.

Before me,

— — — — —, Justice of the Peace.

8. AN APPLICATION TO A JUSTICE to call an annual meeting may be :

To —, a Justice of the Peace of the county of ——:

The undersigned, legal voters (1) in school district No. —, in the town of ——, in said county, respectfully represent that the prudential committee of said district has neglected to issue a warrant and post a copy thereof for the annual meeting of said district for the year 18—, and they request you to call such annual meeting, and insert in the warrant for the same the following articles: [See s. 6, *ante.*]

Dated at said ——, this — day of ——, 18—.

[Signers.]

(1) It has been held in Maine that the application need not state that the signers are legal voters (20 Maine, 154), but it is deemed advisable that it so state.

9. A WARRANT UPON SUCH AN APPLICATION may be :

THE STATE OF NEW HAMPSHIRE.

H—— ss.

To the Inhabitants of School District No. —, in the town of ——; qualified to vote in district affairs:

Pursuant to an application (1) of this date, by three or more legal voters of said district, to me, a justice of the peace of said county, by reason of the neglect of the prudential committee of said district to call the annual meeting of said district for the year 18—, you are notified to meet at, etc. [as in s. 6, *ante.*]

Given under my hand this — day of ——, 18—.

— — — — —, Justice of the Peace.

(1) The warrant need not recite the previous application.—28 Maine, 193. It has also been held that the application need not be recorded.—*id.*; 20 Maine, 489; 20 Vt. 489. But as an application is *essential* it is advised that the warrant show that an application was made; and also that the application be recorded with the warrant.

10. AN APPLICATION FOR A SPECIAL MEETING may be :

To —, Prudential Committee of School District No. —, in the town of ——:

The undersigned, legal voters in said district, request you to issue a warrant and post a copy thereof for a meeting of said district, to be holden at the school-house in said district,

on the — day of — next, at — o'clock in the — noon, to act upon the following subjects: [Insert them.]

Dated at said —, this — day of —, 18—.

[Signers.]

11. A WARRANT FOR A SPECIAL MEETING may be as follows:

THE STATE OF NEW HAMPSHIRE.

To the Inhabitants of School District No. —, in the town of —, qualified to vote in district affairs:

Pursuant to an application (1) to me of this date by three or more legal voters of said district, you are notified to appear at [here state the time, place and object of the meeting precisely as in the application (2).]

Given, &c. [as in s. 6, ante.]

(1) See *ante*, s. 9 (1).

(2) A call, although within ten days, for a meeting at a *later date* than the time named in the application, will not be sufficient to prevent an application to a Justice of the peace.—17 R. 492; Digest, p. 578, ss. 18, 19.

12. AN APPLICATION TO A JUSTICE for a special meeting may be:

To —, a Justice of the Peace for the county of —:

The undersigned, legal voters in school district No. —, in the town of —, in said county, respectfully represent that on the — day of — last three or more legal voters (1) in said district made a written application to the prudential committee thereof to call a meeting of said district, a copy of which application is as follows: [Here insert a copy of the application, including the name of the signers thereto.] Yet said committee has neglected to issue a warrant and post a copy thereof for such meeting, and more than ten days (2) have elapsed since said application.

Wherefore the undersigned request you to call such meeting at the time and place, and for the purposes stated in said application.

Dated at said —, this — day of —, 18—.

[Signers.]

(1) The signers to both applications need not be the same persons.—Digest, p. 388, s. 87.

(2) See *ante*, s. 11 (2).

13. A WARRANT under an application as in s. 12, may be as in s. 9, *ante*, substituting the words "a special," for "the annual." See *ante*, s. 11 (2).

14. MEETINGS LEGALIZED. All officers of all school districts in this state chosen *on or after* the fifteenth day of March, A. D. 1868, at any school meeting holden and notified at least seven days before the day of meeting, or under the provisions of the laws of this state as they were in force prior to the first day of January last, and their proceedings under such elections, are hereby ratified (2) and made valid (1). Provided, however, that this act shall apply to no case in which a subsequent election has been holden, or proceedings instituted in the premises.—Act of July 1, 1868, taking effect from and after its passage. Laws of 1868, p. 154, c. 23.

(1) The effect of such legislation is that hereafter the proceedings will be deemed legal except as against vested rights at the time of the passage of the act.—44 Maine, 350; 9 Mass. 360; Town Officer, p. 13, s. 19 (1).

A meeting called by an acting prudential committee is, if in other respects correct, a legal meeting, although his election or appointment may have been defective.—Digest, p. 499, II; 21 Pick. 75, 80; 35 Vt. 632.

(2) The act has no application to meetings held after the passage of the act.—See also *ante*, p. 8, s. 3 (a).

15. VOTERS. Any person qualified to vote in town (1) affairs may vote at any district meeting in the district in which he has resided and had his home one month next preceding.—*id.* s. 6.

(1) This makes a six months' residence in the town, including one month in the district, necessary.—See 44 R. 398; Town Officer, p. 55, s. 13.

16. CHECK-LIST. Upon petition of ten legal voters in any district, *presented in January* to the prudential committee, he shall make, post and correct a list (1) of the legal voters in the district as selectmen are required to do (2) in regard to the list of voters in their towns; and said list shall be used and checked at the election of officers and otherwise, at the annual meeting of the district, as such list may be used in town meetings.—*id.* s. 7.

(1) The form of the petition may be as follows:

To _____, *Prudential Committee of School District No. —, in the town of —.*

The undersigned, legal voters in said district, request you to make, post and correct a list of the legal voters in said district, as selectmen are required to do in relation to lists of voters in their town.

Dated at said —, this — day of —, 18—.

[Signers.]

(2) For form of check-list and certificate of posting, see Town Officer p. 51, ss. 15-17,

making the necessary changes. The check-list may be posted at the school-house if there is one; otherwise, in some "public place" in the district, as to which see *ante*, p. 20, s. 2 (1).

17. IF ANY DISTRICT, at an annual meeting, shall vote that a check-list shall be used at future meetings, such check-list shall be so made, posted and corrected, and used at all meetings while such vote remains in force.—*id.* s. 8.

18. ILLEGAL VOTING. If any person under the age of twenty-one years, or an alien not naturalized, or any person who has not resided and had his home in the district for one month and in the town six months preceding, shall vote in any district meeting, or if any person shall give in more than one vote for any officer voted for at such meeting, he shall be fined not exceeding thirty dollars, or imprisoned not exceeding three months.—*id.* s. 9.

19. THE OFFICERS OF A DISTRICT shall be a moderator, a clerk, and prudential committee (1) not exceeding three (2), who shall be chosen by ballot by a plurality of votes; shall be sworn, and shall hold their offices for one year or until others are elected and qualified in their stead.—*id.* s. 10, as amended by s. 30, c. 1, of the Laws of 1868.

(1) The offices of selectmen and prudential committee are not incompatible.—55 R. 452. See (d) s. 27, *post*.

"Any female citizen of any school district, of adult age, who has resided therein six months at least, may hold and discharge the duties of prudential committee of such district, whenever chosen thereto by the legal voters of such district, or appointed by the mayor and aldermen of such city or the selectmen of any town."—Laws of 1872, c. 8, s. 1.

(2) A district having chosen a prudential committee of one may choose additional members at an adjournment of the same meeting—12 Met. 99; but not at a meeting called upon a new warrant.—29 Vt. 487.

20. THE MODERATOR of a school district shall have the like power and duty as a moderator of a town meeting to conduct the business and to preserve order (1), and may administer oaths (2) to district officers and others, when oaths are required in the district business. In case of a vacancy or absence, a moderator may be chosen at any meeting.—*id.* s. 11. See s. 21.

(1) See Town Officer, pp. 63-68.

(2) The oath of office is as follows:

"You do solemnly swear that you will faithfully and impartially discharge and perform all the duties incumbent on you as a , according to the best of your abilities, agreeably to the rules and regulations of the constitution and laws of the state of New Hampshire. So help you God."—Gen. Sta. p. 98, o. 38, s. 2.

21. CLERK MODERATOR PRO TEM. If, at any meeting, the

moderator is absent, or if his office has become vacant, *the clerk shall act as moderator* (1) until a moderator *pro tempore* shall be chosen; and, if the clerk is absent, a clerk *pro tempore* shall be chosen; and it shall not be deemed necessary to the choice of such officers *pro tempore* that an article shall have been inserted in the warrant for that purpose; and the choice shall be by ballot and plurality of votes.—Laws of 1868, c. 1, s. 28.

(1) It is an irregularity for the prudential committee to act as moderator in such cases.

22. THE CLERK shall keep a true (1) and attested record of all the doings of each meeting; shall deliver (2) to the selectmen a certified copy of every vote to raise money, within ten days; shall make and certify copies of any votes, when required and payment therefor is tendered; and shall have the same power to administer oaths (3) as the moderator.—Gen. Sts. p. 166, c. 79, s. 12.

(1) The records of school districts, if intelligible, will be construed liberally to effect the objects in view.—17 Maine, 444; 22 do. 193, 203; 22 Vt. 339.

The court will allow an amendment of the records in a proper case.—Digest, p. 37. The district has no right to the custody of its records as against the rightful clerk; but may maintain replevin therefor against a stranger.—44 Maine, 374; 21 Pick. 148.

(2) The clerk is to certify a vote for raising money although the meeting may have adjourned to a time beyond the ten days.—18 R. 317; Digest, p. 579, s. 40.

If the vote is reconsidered—see *ante*, p. 18, s. 28 (a).

(3) See *ante*, s. 20 (2).

The certificate of the record of a vote should contain a copy of so much of the record as shows the due organization of the meeting and then a copy of the vote, and be attested by the clerk as a true copy from the record. Such a certificate, with a record made up as in s. 23, post, will be as follows:

At a meeting of the legal voters of school district No. —, in the town of —, on the — day of —, 18—, at the school-house in said district, at — o'clock in the forenoon:

The meeting was called to order by —, moderator [or “clerk”].

Voted to raise the sum of — thousand dollars for building a new school-house and procuring land and suitable furniture and apparatus and needful conveniences therefor. * * * * *

A true record.

Attest: —, Clerk of District.

A true copy of record.

Attest: —, Clerk of District.

It will be seen that the above corresponds with the parts (a) and (e) in s. 23, *post*.

23. THE RECORD of a district meeting (the warrant and certificate of posting having first been recorded as in s. 5, *ante*,) may be:

(a) At a meeting of the inhabitants of school district No. —, qualified to vote in district affairs, at the school-house in said district, on the — day of —, 18—, at — o'clock in the — noon.

The meeting was called to order by — — —, moderator, [or "clerk," if such was the fact.]

(b) The whole number of tickets given in for moderator was one hundred; upon which

A B had twenty votes,

C D had thirty-five votes,

E F had forty-five votes, and said E F was declared elected moderator, and in open meeting took the oath of office by law prescribed.

(c) The whole number of tickets given in for clerk was one hundred; upon which

B H had thirty votes,

W C had thirty votes,

R S had forty votes, and was declared elected clerk by the moderator, and in open meeting took the oath of office by law prescribed.

(d) Voted to choose a prudential committee of — persons.

For prudential committee the whole number of tickets given in was one hundred; upon which

A B had, etc.

C D had, etc.

(e) Voted to raise the sum of — thousand dollars for building a new school-house and procuring land and suitable furniture and apparatus and needful conveniences therefor.

[Here insert all other votes, not before inserted, care being taken to make the record an accurate and intelligible account of the entire proceedings of the meeting.]

(f) Voted to adjourn this meeting until the — day of —,

18—, at — o'clock in the —noon, at the school-house in said district [or, "Voted that this meeting be dissolved"].

A true record.

Attest: R S, Clerk (1) of said District.

(1) The clerk, if present at the meeting, may certify the record of the votes at the same meeting, although prior to his own election.—13 Pick. 303, 306; 2 Pick. 492.

24. IF A VACANCY SHALL OCCUR in the office of clerk or prudential committee, from any cause, the selectmen, upon application of one or more voters in such district, shall fill such vacancy; and the officers thus appointed shall hold their offices until new ones are legally chosen and qualified.—id. s. 13.

25. WHAT IS A VACANCY. In case a justice (1) shall fail to call such annual meeting in the month of March, by issuing his warrant and causing an attested copy of it to be served, as is provided in chapter seventy-nine of the General Statutes, a vacancy shall be deemed to exist.—Laws of 1868, c. 1, s. 29.

(1) The meaning of this act is not clear, and further legislation is desirable. It is presumed that the act applies only to the case where an application having been made to a justice to call the annual meeting he has failed to do so reasonably, and that *in general* the old officers hold over until new ones are elected and qualified in their stead.—See s. 19, *ante*. A vacancy will occur in the case of the death, resignation, or insanity of the officer, or his removing from the district.—See Town Officer, p. 101, s. 3.

26. AN APPLICATION to selectmen to fill a vacancy may be:
To the Selectmen of the town of ——:

The undersigned, legal voters in school district No. —, in said town, respectfully represent that there is a vacancy in the office of ——, in said district, and they request you to fill such vacancy.

Dated at said ——, this — day of ——, 18—.

[Sig. ers.]

THE APPOINTMENT may be as follows:

To ——, of School District No. —, in the town of ——:

Whereas there is a vacancy in the office of ——, in said district, and an application has been made to us by one or more legal voters of said district to fill such vacancy; we, having confidence in your ability and fidelity, hereby appoint you —— of said district, and upon your taking the oath of

office (1) and having this appointment and the certificate of said oath recorded (2) in the records of said district, you shall have the powers, perform the duties, and be subject to the liabilities of said office.

Witness our hands this — day of —, 18—.

— — — — — } Selectmen
— — — — — } of
— — — — — } — — — — —

(1) See *ante*, s. 20 (2).

(2) See *ante*, s. 5 (2).

27. THE PRUDENTIAL COMMITTEE shall select and hire teachers for the district, provide them board, furnish necessary fuel, make such occasional repairs of the school-house and furniture as may be necessary, not exceeding in amount five per cent. of the school money of the district, notify the superintending school committee of the commencement and close of the schools, and give them such information and assistance as may be necessary for the performance of their duties.—Gen. Sts. p. 167, s. 14.

(a) It has been held that the district is not liable to the teacher for his wages.—16 R. 516; Digest, p. 581, s. 80; but see 15 Pick. 39; 11 du. 259.

(b) The prudential committee as such derives its authority from the statute, and not from the district, and the district cannot deprive him of the power to provide board for the teachers.—15 R. 573; 32 R. 127. See also 20 Vt. 487.

(c) The prudential committee cannot recover of the district for repairs unless authorized by the district. For occasional repairs, not exceeding the five per cent., he has a *lien* on the school money and also for board and fuel.—31 R. 404; 37 R. 445; Digest, p. 580, s. 44-37.

(d) John M. Shirley, Esq., our excellent state reporter, writes me that in some sections of the state the same person is prudential committee and school committee; that in one instance the same man gave a certificate to himself as teacher, hired himself to teach, and then hired himself to board himself, which he justly regards as too much of a monopoly. The whole thing is illegal and reprehensible. The offices are distinct and should never be united in the same person, and least of all should any one ever suppose that he can certify to his own qualifications or make a trade with himself. The prudential committee holds the office and the money of the district only in trust, and must take care not to attempt to use either for his personal emolument.

28. ANY MEMBER OF A PRUDENTIAL COMMITTEE may be dismissed from office by the selectmen, by a written notice in hand or left at his abode, upon petition of one fourth of the legal voters of the district, alleging that he is incompetent, irresponsible, or mismanages the affairs of the district, upon four days' notice to the committee of such petition, and a hearing thereon.—id. s. 15.

(a) The petition may allege *either or all* of the causes of removal or any two of them, and in the words of the statute. The selectmen may in their discretion order a specification.

The petition may be as follows:

To the Selectmen of the town of —.

The undersigned, being one fourth of the legal voters in school district No. —, in said town, respectfully represent that —, prudential committee of said district, mismanages the affairs of said district [or "is incompetent," or "is incompetent and mismanages the affairs of said district," or "is incompetent and irresponsible and mismanages the affairs of said district"], and they therefore request you to dismiss the said — from his said office.

Dated at said —, this — day of —, 18—.

[Signers.]

(b) The order of notice, service and return, may be as follows:

A hearing upon said petition is hereby appointed at —, in the town of —, on the — day of — next, at — o'clock in the — noon; and it is ordered that the petitioner give notice of said petition and hearing to the said —, by giving to him, or leaving at his abode, an attested copy of said petition and this order thereon, — days at least before the said day of hearing.

Given under our hands, this — day of —, 18—.

_____, } Selectmen
_____, } of
_____, }

The copy may be attested by the person serving it; as—

A true copy. Attest:

B—, —, 18—. I hereby certify that on the — day of —, 18—, I gave to —, within named, [or, "I left at the abode of —, within named," if such was the fact,] an attested copy of the within petition and order thereon.

M— ss. —, 18—. Then appeared — and made oath that the above certificate, by him signed, is true.

Before me,

_____, Justice of the Peace.

(c) The final order may be as follows:

Upon the foregoing petition we appointed a hearing, and gave notice thereof as aforesaid, and on the — day of —, 18—, at — o'clock in the — noon, at —, in the town of —, the time and place appointed [here insert the names of those who appeared as parties], appeared as parties [and said hearing was adjourned to the — day of —, 18—, at — o'clock in the — noon, at —, in the town of —]; and having heard all parties who desired to be heard, and examined them — and their witnesses under oath, we find that said — does mismanage the affairs of said district [or whatever else may have been charged and found true] as alleged in said petition, and therefore order that he be removed from his said office.

Given under our hands this — day of —, 18—.

_____, } Selectmen
_____, } of
_____, }

(d) The town clerk must record the entire proceedings, as they take effect only from the time of their being recorded, and certify the record of each separate part as follows:

Received and recorded —, 18—, at — o'clock in the — noon.

A true record. Attest:

_____, Town Clerk.

The filing upon the papers may be:

Received and recorded, and filed —, 18—.

By me,

_____, Town Clerk.

(e) Notice of dismissal may be as follows:

To —, Prudential Committee of School District No. —, in the town of —:

You are hereby dismissed from your office of prudential committee, for the causes alleged in the petition of — [naming some of the petitioners] and others.

Witness our hands this — day of —, 18—.

_____, } Selectmen
_____, } of
_____, }

(f) The original should be served, and the copy and return recorded by the clerk of the district.

(g) The certificate of service may be as follows:

I certify that on the — day of —, 18—, I gave to the within named — [or I left at the abode of the within named —], the original notice of which the within is a true copy.

— ss. —, 18—.

Then appeared — and made oath that the above certificate signed by him is true.

Before me,

_____, Justice of the Peace.

CHAPTER IV.

SCHOOL-HOUSES.

AGENT , appointment of, s. 8 (1).	LOCATION OF SCHOOL-HOUSE .
ASSESSMENT OF SCHOOL-HOUSE	By vote of district, s. 2.
TAX, s. 11 (b), ss. 13, 14.	
New assessment, s. 13 (c).	
New invoice, s. 12, s. 13 (a) (c).	
Illegal assessment, effect of, s. 13 (a) (c).	
Omission to tax, effect of, s. 13 (b).	
BETTERMENTS upon defective laying out, s. 9 (b).	
BUILDING COMMITTEE , s. 12.	
FURNITURE AND APPARATUS , s. 1.	
HALL, when district may provide, s. 1 (a).	
LAND FOR SCHOOL-HOUSE , ss. 2, 8, 9, 10.	
Petition to selectmen, etc., s. 8.	
Title of districts, s. 8 (a), 9, 9 (a), 10.	
LOCATION OF SCHOOL-HOUSE .	
By committee of district, s. 3.	
By county commissioners, s. 6.	
By school committee, ss. 4, 5.	
	NEGLECT TO BUILD SCHOOL-HOUSE , ss. 10, 11.
	To procure lot, s. 10.
	To remove school-house, ss. 10, 11.
	NON-RESIDENT TAX-LIST , s. 15.
	OVER-ESTIMATE by selectmen, s. 11 (c).
	PRIVATE SCHOOL , s. 1 (b).
	RAISING MONEY by district, ss. 1, 1 (c).
	For repairs before union, s. 1 (c).
	RATIFICATION by vote only, s. 12 (b).
	REMOVAL FROM DISTRICT , s. 14 (a).
	SCHOOLS , where to be kept, ss. 16, 16 (a).
	SELECTMEN , when liable for tax, s. 13 (a).
	TREES AND FENCE ON SCHOOL-LOT , s. 8 (a).

1. RAISING MONEY FOR. Any district, at a legal meeting holden for the purpose, may raise money (1) for building, purchasing, renting, repairing or removing (2) such school-houses and out-buildings as the wants of the district require, procuring land, and providing suitable furniture and apparatus, and needful conveniences therefor.—Gen. Sts. p. 167, c. 80, s. 1; Digest, p. 578.

(1) The article in the warrant may be general, “To raise money for buildings, etc., following the words of the statute.” The vote should be more specific, and under the general article, *ante*, s. 6 (v), a building committee can be appointed.

(2) It is no objection that the school-house was removed from another district nor that it was left in a different shape and size from what it was before.—*39 Maine*, 556.

(a) The district may build with a hall for the occasional use of the district, the contractor reserving the right to the use at other times.—*6 Met.* 498, 510.

(b) It is held in Vermont that the district may authorize a private school to be kept in the school-house.—*37 Vermont*, 497; 24 *do.* 28.

(c) If a union district, it is no objection that the money voted is for repairs made before the union, provided the new district takes the benefit of them.—*34 R.* 315; Digest, p. 518, s. 35. But provision should be made for such cases at the time of the union.

2. THE DISTRICT MAY DECIDE (1) UPON THE LOCATION of their school-houses by vote, or by a committee appointed for

that purpose, and purchase or procure land for the same, and may choose committees with powers to carry their votes into effect.—*id. s. 2.*

(1) The district may locate by a *major vote* of those present and voting.—*38 Vt. 177.*

The location should always give the boundaries.

3. IF THE DISTRICT LOCATE BY A COMMITTEE, the vote may be;

“Voted, that A B, etc., be authorized to decide upon the location of said school-house, and purchase or procure land for the same.” This will make the action of the committee *final*.

Or the vote may be:

“Voted, that A B, etc., be a committee to examine and report upon the location of the school-house,” and then a subsequent vote adopting their report will be necessary. See *ante*, p. 8, c. 2, s. 8, and *post*, s. 4.

In either case the location should be by distinct boundaries. The report should be in writing, and be recorded by the district clerk and kept on file. See p. 22, s. 5 (2). The recording may not be *indispensable*, although useful to guard against loss.—*3 Allen, 409.*

A *majority* of the committee may act.—*35 R. 447*; *Digest*, p. 578, s. 31.

4. LOCATION BY SCHOOL COMMITTEE. If any three or more of the voters of a district are aggrieved by the location of any school-house by the district or its committee, they may apply by petition to the school committee, who shall hear and determine the location thereof.—*id. s. 4.*

(a) The proceedings may be as follows:

To the School Committee of the town of _____:

The undesignated, legal voters in school district No. —, in said town, respectfully represent that a parcel of land described as follows: [insert the description] has been decided upon by said district for the location of a school-house, for said district. Your petitioners are aggrieved by the location of said school-house and request you to determine the location thereof.

Dated at said —, this — day —, 18—.

[Signers.]
A hearing upon said petition is hereby appointed at —, in the town of —, on the — day of — next, at — o'clock in the — noon; and it is ordered that the petitioners give notice of said petition and hearing to the said district by posting an attested copy of said petition and this order thereon, on the door of the school-house of said district, fourteen days at least before said day of hearing, and leaving a like copy at the abode of the clerk a like time before said day of hearing.

Given under our hands, this — day of —, 18—.

_____, { Selectmen of _____.

The copy may be attested by the person serving it; as—

A true copy. Attest:

I certify that on the — day of —, 18—, I posted an attested copy of said petition and order, on the door of the school-house in the school district within mentioned, and on the same day I left a like copy at the abode of —, the town clerk of said district.

G—ss. —, 18—. Then appeared —, and made oath that the above certificate, by him signed, is true.

Before me,

—, Justice of the Peace.

Upon the foregoing petition we appointed a hearing, and have given notice thereof aa aforesaid, and on the — day of —, 18—, at — o'clock in the — noon, at —, in the town of —, the time and place appointed, — [here insert the names of those who appeared as parties], appeared as parties [and said hearing was adjourned to the — day of —, 18—, at — o'clock in the — noon, at —, in the town of —]; and having heard all parties interested who attended and desired to be heard, and all evidence offered by them, and examined them and their witnesses under oath, we find that the parcel of land described in said petition has been decided upon by said district for the location of their school-house, and that the petitioners, being three or more legal voters in said district, are aggrieved by such location, and we therefore determine that the location of said school-house shall be upon a parcel of land bounded and described as follows: [Insert by metes and bounds.]

Given under our hand at —, this — day of —, 18—.

—, { Selectmen of —.

Received and recorded at — 18—, at — o'clock in the — noon.

A true record. Attest.

—, Town Clerk.

If no change is made, the report after proceeding to the word oath, may be: "We find that said petitioners are not aggrieved by the location of said school-house, and we therefore make no change," etc.

5. IF DISTRICT DO NOT AGREE. If, at a meeting duly helden for the purpose, the district do not agree upon a location for a school-house, or upon a committee to locate the same, the school committee, upon petition of three or more voters, shall determine the location.—id. s. 5.

(a) The proceedings may be:—

To the School Committee of the town of —:

The undersigned, legal voters of school district No. —, in said town, respectfully represent that at a meeting of said district, duly holden on the — day of — last, to act upon the subject, the district voted to build a school-house, but failed to agree upon a location for said school-house, or upon a committee to locate the same, and said meeting adjourned without day; wherefore the undersigned request you to determine the location thereof.

Dated at said —, this — day of —, 18—.

[Signers.]

Order of notice, service, etc., as in s. 4.

Final order, as in s. 4, to the word oath, and then say: "we find that at a meeting duly holden to act upon the subject, the said district voted to build a school-house, but failed to agree upon a location for such school-house, or upon a committee to locate the same, as stated in said petition, and said petitioners are legal voters of said district; we therefore determine that said location shall be at," etc. [Describe the lot by metes and bounds.]

Date, signature and recording, as in s. 4.

6. BY COUNTY COMMISSIONERS. If any ten or more legal voters of a school district are aggrieved by the location of any school-house by the district or its committee, or by the superintending school committee, they may apply by petition (1) to the county commissioners, who shall upon notice and hear-

ing determine the location.—Laws of 1871, c. 4, ss. 1, 2; 55 R. 311.

(1) *Petition to county commissioners.*

To the County Commissioners, for the county of _____:

The undersigned being ten and more legal voters in school district No. —, in the town of —, in said county, respectfully represent that a parcel of land, bounded north [giving the boundaries, or in some way sufficiently describing the lot] has been determined upon and selected by said district [or, "by a committee of said district," or "by the superintending school committee of said town," as the case may be] for the location of a school-house for said district; and that your petitioners are aggrieved by such location, and they therefore request you to determine the location of said school-house.

Dated at —, the — day of — 18—.

For subsequent proceedings see section two of the said act, the Laws of 1872, c. 13, and ante, s. 4, and notes.

7. STAY OF PROCEEDINGS. While proceedings upon such a petition (1) are pending before the county commissioners, no steps can lawfully be taken by the district or its officers, or other parties, to carry into effect any former location of the school-house.—Laws of 1871, c. 4, s. 2.

(1) The retrospective operation of this act has been decided to be constitutional.—Farmers' petition, 51 R. 376.

8. SELECTMEN TO LAY OUT. If the owner of the land designated by the district or its committee, or by the school committee, for a school-house, shall refuse to sell the same for a reasonable price, the selectmen, upon petition, may lay out a lot not exceeding half an acre, and appraise the damages to the owner, who shall have like remedy for increase of damages as if the same were laid out for a highway.—Gen. Sts. c. 80, s. 6.

(a) It seems (says Ch. J. Shaw upon a similar statute) that the owner of the land cannot remove trees and fences, as when land is taken for a highway.—2 Gray, 414. See 43 R. 503; Digest, p. 579.

THE PROCEEDINGS may be as follows:

To the Selectmen of the town of _____:

School district No. —, in said town, represents that a lot of land not exceeding half an acre, and bounded and described as follows: [here insert the description] and owned by —, of said town, has been legally designated for a school-house lot, "by said district, by a vote at a meeting duly held for that purpose," [or, "by a committee duly appointed by said district for that purpose;" or, "by the school committee of said town," as the case may be,] and that said owner refuses to sell the same for a reasonable price; wherefore said school

district requests you to lay out and appraise the damages to the owner.

Dated at said ——, this — day of —, 18—.

School District No. —, in ——,

by H W, J W and C R,

Agents duly authorized(1).

(1) A committee to locate a school-house "and purchase or procure land for the same," may make the application to the selectmen in the name of the district and perhaps in their own name.—Digest, p. 21, ss. 58, 59, 64, p. 75, s. 19.
"When the district locates it should choose an agent "to procure the land for the school-house by purchase or appraisal."

A hearing upon said petition is hereby appointed at ——, in the town of ——, on the — day of — next, at — o'clock in the — noon; and it is ordered that the petitioner give notice of said petition and hearing to the said ——, by giving to him, or leaving at his abode, an attested copy of said petition and this order thereon, fourteen days at least before the said day of hearing.

Given under our hands, this — day of, 18—.

_____, _____ } Selectmen
_____, _____ } of
_____, _____ } _____.

The copy may be attested by the person serving it; as—
A true copy. Attest: _____.

B—, —, 18—. I certify that on the — day of —, 18—, I gave to ——, within named, [or, "I left at the abode of ——, within named," if such was the fact,] an attested copy of the within petition and order thereon.

M— ss. —, 18—. Then appeared ——, and made oath that the above certificate, by him signed, is true.

Before me,

_____, Justice of the Peace.

Final order as in s. 4, *ante*, to the word "oath," and then say: "we find that the lot of land described in said petition has been legally designated for a school-house lot, as stated in said petition, and that ——, the owner of said land refuses to sell the same for a reasonable price; and we therefore lay out said lot bounded and described as follows, [here in-

sert the boundaries,] for a school-house lot, and appraise the damages to the said owner at the sum of _____ dollars."

Date, signing, filing and recording by the town clerk as in s. 4.

9. **EFFECT OF LAYING OUT.** Upon payment or tender of such damages, the land so laid out shall vest in said district, but shall revert to the owner whenever the district shall vote to discontinue the use thereof, or shall cease to use the same for a school-house two years successively.—*id.* p. 168, s. 7.

(a) An entry without such payment or tender is a trespass.—52 *Maine*, 144. See *ante*, s. 7 (a).

The selectmen upon such laying out have authority to pay the land damages for the lot and accept a release for the benefit of the district.—*Holbrook v. Foulker*, 55 *R.* 311.

(b) It has been held in Massachusetts that if the proceedings for procuring a school-house lot do not conform to the statutes and the land is not legally taken, the district cannot have betterments.—11 *Gray*, 40. But it is doubtful if such a construction would be given to our statute if the district has held under a *supposed* legal title for more than six years before the commencement of the action.

10. **NEGLECT OF DISTRICT TO PROCURE LAND.** If any school district shall neglect or refuse to purchase or procure the land designated for a location by the district or its committee or the school committee as before mentioned, the selectmen, (1) upon petition, may lay out a lot not exceeding half an acre and appraise the damages to the owner, and pay or tender the same to him, and thereafter the land will vest in the district as in other cases.—*Laws of 1871*, c. 41; 55 *R.* 311; *ante*, s. 9 and note (a).

(1) *Enlarging.* The county commissioners, upon petition, may enlarge any existing school-house lot so that it shall not exceed one half acre.—*Laws of 1872*, c. 13, s. 4.

11. **NEGLECT TO BUILD, ETC.** If any district shall refuse or neglect to build, repair, remove or fit up a school-house, or shall refuse or neglect to build such school-house upon or to remove it to the lot designated as aforesaid, (1) the selectmen, upon petition of three or more voters of the district, after hearing the parties, may assess upon the district, and collect such sums of money as may be necessary, and therewith cause such school-house to be built, removed, repaired or fitted up.—*Gen. Sts. c. 80*, s. 8; *Digest*, p. 579, ss. 42-44.

(1) The selectmen have authority under this section to build a school-house on a location by the county commissioners, the district having unreasonably neglected or refused to build.—55 *R.* 311.

(a) Proceedings under the *first* clause may be:

To the Selectmen of the town of —:

The undersigned, legal voters of School District No.—, in said town, respectfully represent that on the — day of — last the school-house in said district was destroyed by fire, and said district has unreasonably neglected to build a school-house, and the undersigned therefore request you to assess upon the district and collect such sums of money as may be necessary and therewith to cause a school-house to be built.

Dated at said —, this — day of —, 18—.

[Signers.]

Order of notice, service and return as in s. 4, *ante*.

The final order, after proceeding to the word "oath" *ante*, p. 34, "we find that the school-house of said district was destroyed as stated in said petition, that said petitioners are legal voters in said district, and said district has unreasonably neglected to build a school-house, and we therefore assess upon said district and order to be collected the sum of — dollars, therewith to cause a school-house to be built."

Date, signatures and recording as *ante*, s. 4.

If the neglect has been to repair and fit up, the petition may allege that the school-house is, and for a long time has been, insufficient and in need of repair, and that the district has unreasonably neglected to fit up and repair the same, &c., and the final order be changed accordingly.

(b) Proceedings under the *second* clause may be:

To the Selectmen of the town of —:

The undersigned legal voters of School District No.—, in said town respectfully represent that on the — day of — last, a parcel of land described as follows, [insert the description] was duly designated for the location of a school-house by a vote of said district [or, "by a committee duly appointed by said district for that purpose," or, "by the school committee of said town"] but said district has unreasonably neglected to build a school-house upon said lot, [or, "have unreasonably neglected to remove their school-house to said lot"] and the undersigned therefore request you to assess upon said district and collect such sums of money as may be necessary and therewith cause a school-house to be built upon said lot [or, "and therewith cause the school-house of said district to be removed to said lot"].

Dated at said —, this — day of —, 18—.

[Signers.]

Order of notice, service and return as in s. 4, p. 34, *ante*.

Final order as in s. 5, p. 35, to the word "oath" and then: "we find that the lot described in said petition was duly designated for the location of a school-house as stated in said petition, that said petitioners are legal voters of said district and said district has unreasonably neglected to build a school-house upon said lot [or, "have unreasonably neglected to remove their school-house to said lot"] and we therefore assess upon said district and order to be collected the sum of — dollars, therewith to cause a school-house to be built upon said lot," [or, "therewith to cause the school-house of said district to be removed to said lot"].

Date, signature and recording as *ante*, s. 4.

(c) The tax cannot be defeated by showing that the expenses were less than the estimates, provided the selectmen have acted in good faith, and this will be presumed till the contrary is shown.—45 R. 385, 397; Digest, p. 579, s. 44.

The general form of assessment may be as in s. 25, and the warrant to the collector in the general form, p. 210, s. 17. As to new invoice, see s. 14, *post*.

12. BUILDING COMMITTEE. No committee shall have power to bind the district beyond the amount of money voted by the district, and the district shall not be bound by any act as the ratification of the doings of such committee beyond their authority, unless by express vote of the district at a meeting called for that purpose.—Gen. Sts. p. 167, c. 80, s. 3.

(a) This section is new, and is an important qualification of the decisions in respect to a ratification in this and other states, some of which may be found in 28 R. 58; 30 do. 25; 25 do. 118; Digest, p. 20, s. 48, pp. 579-80, ss. 53-56, p. 578, ss. 31-33; 2 Cush. 419; 4 Cush. 494; 39 Maine, 220; 24 Maine 349; 17 Maine, 316.

A vote to raise a certain sum "towards" purchasing land and erecting a school-house," was held not to limit the committee to the sum voted.—39 Maine, 220.

A building committee cannot sue in their own names for the money if not paid over by the selectmen.—10 R. 72; Digest, p. 580, s. 57.

Suits by them for their own services and expenditures are to be several and not joint.—Digest, p. 529, s. 103, p. 580, ss. 54-56.

A majority of the committee may act.—Digest, p. 578, s. 31.

13. IN THE ASSESSMENT of school-house taxes, every person shall be taxed in the district in which he lives (1) for his poll and the personal estate which he has subject to taxation in town; and all real estate shall be taxed in the district in which it is.—*id. s. 10.*

(1) That is, in the district in which he lived on the 1st day of April, unless a new invoice is made.—*Gen. Sts. p. 120, c. 51, a. 1, p. 122, c. 53, ss. 1, 3; 52 R. 192; 32 Vt. R. 769; 31 do. 337; see a. 13, post.* If this should result in double taxation, the selectmen can abate.

(a) If for any cause the vote upon which the assessment is made is unauthorized, the selectmen will be liable for assessing and collecting the tax.—See *ante*; 42 R. 102; *Digest*, p. 537, 956. It is held elsewhere that one who pays such an illegal tax to the town collector or treasurer may recover it of the district.—11 Gray, 487; 3 Cushing, 573; 12 Pick. 206; 51 Maine, 101; 41 do. 246.

But it is presumed that it may be recovered of the town if it has not been paid over to the district, or the tax-payer may proceed against the selectmen.

(b) An omission through error of judgment or mistake to assess a person liable to a school-house tax does not invalidate the tax as against others.—21 Pick. 76; 6 Met. 498.

(c) If an *illegal* assessment has been made, the selectmen, or their successors, may make a new one.—3 Mass. 231. It is no objection to the validity of an assessment that it is not made within the time directed by the statute.—*id.*

14. NEW INVOICE. The selectmen may make a new invoice of all the property in the district, *when necessary for the just assessment* of the school-house taxes.—*id. s. 11.*

(a) The *mere* fact of changes since the first of April, either in the ownership of property or by removals from the district, will not render a new invoice essential, for it may be just in some cases to tax upon the old invoice notwithstanding.—42 R. 102; *Digest*, p. 539, ss. 46, 47. See *ante*, s. 13 (1).

It has been held in Mass. that a person cannot be assessed in a school district after he has been *set off* from it.—12 Met. 178; 5 Gray, 413; 5 Pick. 323.

15. NON-RESIDENTS. If such taxes are assessed after the first of July, in any year, upon the property of non-residents, the collector may deliver a copy thereof to the deputy-secretary on or before the eighth day of the next June session of the general court, and further proceedings may be had in relation thereto as if such tax had been assessed in April preceding.—*id. s. 12.* See *Town Officer*, p. 221, ss. 3-21.

16. WHERE SCHOOL SHALL BE KEPT. No district school shall be kept in any other place than the school-house belonging to the district, unless there is no school-house, or the school-house is out of repair, or not of sufficient size to accommodate the scholars; in which case the prudential committee, with the consent of the school committee, may provide suitable rooms and conveniences for the use of the scholars at the expense of the district.—*id. s. 9.*

(a) A verbal consent may be sufficient, but a written application, as follows, is advisable:

To the School Committee of the town of —:

The undersigned, prudential committee of school district No. —, in said town, respectfully represents that the school-house belonging to said district is not of sufficient size to accommodate the scholars, and he proposes, with your consent, to provide suitable rooms and conveniences for the scholars at the expense of the district at [describe], and requests your approval.

Dated at said —, this — day of —, 18—.

— — —, Prudential Committee.

Approved this — day of —, 18—.

— — — { School Committee.

CHAPTER V.

SCHOOL COMMITTEES AND TEACHERS.

ANNUAL REPORT, ss. 21, 22.

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CERTIFICATE, of moral character, ss. 3, 4.

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TEXT-BOOKS, change of, ss. 13, 14, 15.

By whom supplied, s. 16.

Not to be sectarian, s. 15.

VACATIONS, s. 12 (f).

1. SCHOOL COMMITTEE. Every town may elect (1) annually, by ballot, a school committee of so many persons as they think fit; and whenever any town shall neglect to choose such committee in manner aforesaid, or otherwise according to law,

the selectmen, before the twentieth of April, shall appoint
(2) such committee.—Gen. Sts. p. 169, c. 81, s. 2.

(1) A vote to choose five persons as an "*examining committee*," is a sufficient designation.—13 Pick. 229.

(2) *To —, of the town of —:*

Whereas said town has failed to elect a school committee at its annual meeting, we, having confidence in your ability, discretion and fidelity, hereby appoint you school committee of said town for the year 18—, and upon your taking the oath of office, and having this appointment and the certificate of said oath recorded in the records of said town, you shall have the powers, perform the duties and be subject to the liabilities of said office, until others are chosen or appointed and sworn in your stead.

Witness our hands this — day of —, 18—.

— — — } Selectmen
— — — } of

(a) It is held in Mass. that the school committee may break open a school-house, from which a teacher has been unlawfully excluded, and re-instate him.—8 Cushing. 191. But it is presumed that they could not do it here, against the will of the prudential committee.—See 37 Vt. 497; 21 do. 28.

2. ANY TOWN MAY ADOPT A BY-LAW providing for the choice of a school committee of such number, chosen in such manner, for such terms, with such title, and such powers relating to schools, as they may think proper; and the committee so chosen shall hold office and have power accordingly; and shall perform all the duties imposed by law on school committees.—id. s. 2.

3. To EXAMINE TEACHERS. The school committee shall examine all persons proposing to teach school in the town, who shall produce satisfactory evidence of good moral character and of suitable temper and disposition for teachers, in such branches as are usually taught in the class of schools in which they propose to teach, and as to their capacity for governing the same; and if found competent they shall give them certificates thereof, setting forth the branches they are capable of teaching.—id. s. 3.

4. A CERTIFICATE OF MORAL CHARACTER may be:

This certifies that we have been acquainted with the bearer, — — —, of this town, for — years, and that he is a person of good moral character, and of suitable temper and disposition for a teacher.

Witness our hands at — — —, this — day of —, 18—.

[Signers.]

An informal letter or verbal statement may be "satisfactory" if the committee choose so to regard it.

5. A CERTIFICATE OF QUALIFICATIONS may be:

This certifies that — — — is well qualified to instruct

(1) youth in reading, spelling, writing, English grammar, arithmetic, and the elements of geography and history.

Witness our hands at _____, this — day of —, 18—.

_____) School Committee
of _____.

(1) This *implies* a capacity to govern, and, if this is wanting, the certificate should be withheld.—9 Allen, 94.

(2) If other branches are to be taught the certificate should specify them. It should in all cases *specify* the branches which the applicant is found competent to teach and is expected to teach.

6. BRANCHES REQUIRED. Teachers of common schools shall be examined in reading, spelling, writing, English grammar, arithmetic, and the elements of geography and history, and in other branches usually taught in said schools.—id. s. 9.

(a) A teacher is not liable to a parent for refusing to instruct his children.—23 Pick. 224.

7. ADDITIONAL BRANCHES. The school committee may prescribe for any school, where in their judgment it shall be proper, the study of surveying, geometry, algebra, book-keeping, philosophy, chemistry, natural history and physiology, or any of them, and other suitable studies; and teachers proposing to teach in such schools shall be examined in those branches in addition to those required of other teachers.—id.

s. 5.

8. NO PERSON SHALL BE EMPLOYED OR PAID FOR SERVICES AS A TEACHER unless he shall produce and deliver to the prudential committee a certificate of the school committee of the town in which the district where the school is to be kept is, or is deemed to be, that he is well qualified to instruct youth in the branches to be taught in such school.—id. s. 5.

(a) Until such certificate has been obtained and delivered to the prudential committee, or offered to him, the person employed has no right to *wages* and no *authority*. And the court, upon application by any inhabitant of the district, will grant an injunction against paying *pme* for services prior to the time he obtained his certificate.—19 R. 170; Digest, p. 183, s. 115; 9 Allen, 84; 27 Maine, 266, 278; 20 do. 154.

It must be signed by a *majority* of the committee; but if thus signed, it cannot be objected that the committee did not act together in the examination.—27 Maine, 266, 278; nor that it was granted without *any* examination, provided it was not obtained by fraud.—20 Vt. 495.

The certificate should be from the committee of the *current* year.—20 Maine, 37.

9. DISMISSING TEACHERS. The school committee, upon petition of a majority of the legal voters in any district for the dismissal of a teacher, after giving to the parties *twenty-four*

hours' notice and a hearing, may dismiss him, if in their judgment such dismissal will best promote the interests of the district.—*id.* s. 7.

It may occur that the dismissal of a competent teacher without any fault on his part "will best promote the interests of the district," but such cases must be extremely rare.

The form of proceedings under s. 9 may be:

To the School Committee of the town of ——:

The undersigned, constituting a majority of the legal voters in school district No. —, in said town, respectfully represent that the dismissal of ——, who is a teacher in said district, will best promote the interest of the district [reasons may be assigned if deemed expedient], and they therefore request that he may be dismissed.

Dated at said ——, this — day of —, 18—.

[Signers.]

Order of notice by the committee and service and returns as in (b) s. 28, p. 331, *ante*.
Final order as in (c) s. 28, p. 331, *ante*, to the word "oath," and then: "in our judgment the dismissal of said —— will best promote the interests of the district [reasons may be assigned if deemed expedient], and a majority of the legal voters having petitioned for his dismissal as aforesaid, said teacher is hereby dismissed."

Recording and filing as in (d)(e) s. 28, p. 32, *ante*.

10. WITHOUT A HEARING. The school committee shall without a petition dismiss any teacher who is *found by them* incapable or unfit to teach, or whose services are found unprofitable to the school, or who shall not conform to the regulations prescribed by them.—*id.* p. 170, s. 8.

An order under s. 10, may be as follows:

Whereas, the services of ——, who is employed as a teacher in school district No. —, are found by us to be unprofitable to the district [reasons may be assigned if deemed expedient] said teacher is hereby dismissed.

Date and recording as s. 28, p. 32, *ante*.

11. NOTICE OF REMOVAL. The school committee, upon dismissal of any teacher, shall give immediate notice thereof to the teacher and prudential committee; and the teacher shall receive no pay for his services after such notice.—*id.* s. 9.

Notice to the prudential committee may be:

To the Prudential Committee of School District No.—:

You are hereby notified that ——, heretofore employed as teacher in said district, has this day been dismissed.

Witness our hands this — day of —, 18—.

_____, _____, { School Committee
_____, _____, of _____.

Notice to the teacher may be as follows:

To ——, a Teacher in School District No.—:

You are hereby notified that [upon the petition of a majority of the legal voters of said district] you have this day been dismissed [reasons may be assigned if deemed expedient].

Witness our hands this — day of —, 18—.

_____, _____, { School Committee
_____, _____, of _____.

Service of the notice should be made by giving or leaving the original and retaining a copy; see *ante*, p. 32, s. 28 (f) (g).

12. RULES AND REGULATIONS. The school committee may

prescribe suitable rules and regulations for the management, studies, classification and discipline of the schools, whenever they deem the same necessary; and the same being recorded by the town clerk, and a copy thereof given to the teachers and read in the schools, shall be binding upon scholars and teachers.—*id. s. 10.*

The school committee may make such rules and regulations respecting the attendance of the public schools in their respective towns as in their opinion may be necessary.—*Laws of 1868, p. 145, c. 9.*

Such regulations may be in form as follows:

REGULATIONS FOR SCHOOLS IN THE TOWN OF ____.

No child under three years of age shall attend any summer school, and no child under four years of age shall attend any winter school.

School-rooms shall be kept warm and clean, and teachers may in their discretion require scholars to kindle fires and sweep school-rooms.

Scholars shall be responsible to teachers for any misconduct in going to or returning from school except when in the immediate care of their parents, masters or guardians.

Compositions shall be required of the most advanced class in grammar once in two weeks during the term.

Witness our hands this — day of —, 18—.

____—____— } School Committee
of
____—____— } ____—.

Recording as in p. 97, s. 42 (c).

(a) The act of 1868 was not probably intended to authorize the school committee to determine in relation to the attendance of scholars from out the district.—See *ante*, p. 9, c. 2, s. 32, and *post*, c. 53, s. 1.

(b) Ordinarily a regulation that scholars shall sweep the school-room is reasonable and valid.—*Rideout v. Woods, Hillsborough, March Ad. Term, 1868.*

(c) It is said by *Alidis J.*, in 32 Vt. R. 120, that the supervision and control of the master over a scholar extends from the time he leaves home to go to school till he returns.

The question does not appear to have come before the courts of this state, and to remove doubts it may be well for the school committee to make a rule on the subject.

The case in Vt. was where the scholar some hours after his return home, but in the presence of other scholars, used insulting language toward the teacher for which he was punished by the teacher on his return to school the next morning. The court held that although the teacher has in general no right to punish for misconduct after school hours and the return of a pupil to his home, yet he may on the pupil's return to school punish him for any misbehavior "which has a direct and immediate ten-

dency to injure the school and subvert the master's authority," and the jury found the misconduct in that case was of this character.—*Lander v. Seaver*, 32 Vt. 114.

(d) It has been decided in Vermont that the teacher may require compositions of the grammar class and that a scholar may be expelled who does not conform to the requirement.—32 Vt. 225.

"It seems that such a requirement would be reasonable and proper in the majority of the studies prescribed for district schools."—*id. per Redfield*, Ch. J.

(e) It has been decided in Massachusetts, under a similar statute, that separate schools may be provided for colored children.—5 *Cush.* 198.

(f) The school committee may determine vacations if they see fit.—12 *Gray*, 16.

(g) It has been decided in Massachusetts that the school committee of a town may lawfully make a rule that the schools shall be opened each morning with reading from the Bible and with prayer, and that during prayer each scholar shall bow the head, unless his parents shall request that he be excused from doing so; and that they may lawfully exclude from the school a scholar who refuses to comply with such rule and whose parents refuse to request that he be excused from complying with it.—*Speller v. Woburn*; 12 *Alien*, 127.

It was considered that a regulation that the scholar should bow the head did not compel him to join in the prayer, but was merely to preserve order and decorum during the services. "A regulation," said Ch. J. Bigelow in delivering the opinion of the court, "requiring the pupils to conform to any religious rite or observance or go through with any religious forms or ceremonies which are contrary to their religious convictions or conscientious scruples, would be a violation of the spirit of the constitution of the state, which provides that 'no one shall be hurt or molested in his person, liberty or estate for worshiping God in the manner and season most agreeable to the dictates of his own conscience.'"

13. TEXT-BOOKS, CHANGE OF. Any text-book or series of text-books on one subject, which on the tenth day of July, 1867, shall have been in established use in any school for a less time than three years, and any which shall be thereafter introduced by the school committee, shall continue in use therein for the term of three years from its introduction, and during that time no other text-books on the same subject shall be used.—*id. s. 11.*

14. THE SCHOOL COMMITTEE may direct a change of one of the text-books or series of text-books on one subject, used in each class of schools kept in town, annually, and no more.—*id. s. 12.*

15. NOT SECTARIAN. No book shall be introduced calculated to favor any particular religious or political sect or tenet.—*id.*

16. PARENTS, ETC., TO PROVIDE. The parents, masters, or guardians of the scholars attending school, shall supply such scholars with the books required to be used in the schools; and upon neglect or refusal, after notice, the same shall be furnished by the school committee at the expense of the town; and the cost of the same shall be added to the next annual tax of such parent, master, or guardian, if able to pay the same.—*id. s. 13.*

17. SCHOOL REGISTERS. The school committee shall fur-

nish to every teacher one of the blank registers required to be furnished by the board of education, and each teacher shall cause all proper entries to be made therein as required by said board; and in the absence of such register he shall keep a record of the names and ages of all the scholars attending his school, the studies pursued by each, and the number of half days each has attended his school.—id. s. 14.

(a) It has been held in Massachusetts that the school committee cannot maintain trespass for school registers taken from their possession.—3 *Cush.* 549; 14 *Gray*, 160; but see *Digest*, p. 613, s. 32.

18. **RETURN OF.** * Every teacher, at the close of his school and at the end of each term thereof, shall make a return of such register or record to the school committee of the town, who shall give to him a certificate thereof; and no teacher shall receive payment for his services, until such certificate is produced and delivered to the prudential committee.—id. s. 15.

(a) As the certificate is now required it will protect the prudential committee in paying, but it may not be conclusive in an action by the teacher for his wages.—2 *Allen*, 593.

19. **THE CERTIFICATE** may be as follows:

This certifies that ——, a teacher in school district No. —, has returned to us a school register or record as required by law.

Witness our hands this — day of —, 18—.

— — — } School Committee
— — — } of
— — — — .

20. **VISITING SCHOOLS.** The school committee shall visit and examine personally, or by a sub-committee by them appointed, each school kept in town, at least twice in each term, near the beginning and toward the close thereof.—Gen. Sts. p. 170, c. 81, s. 10.

21. **BY SUB-COMMITTEE.** Such school committee may elect one of their number to visit and superintend the schools, who shall make report to the committee of his doings, and of the state of the schools, before the first day of March annually.—id. s. 17.

22. **ANNUAL REPORT.** The school committee shall present to the town, at its annual meeting, a report stating the number

of weeks the public schools have been kept in each district, in summer and winter, and what portion by male and what by female teachers; the whole number of scholars that have attended each school, and the number attending to each study; the number of children between four (1) and fourteen that have not attended school, and the number of persons in each district between the ages of fourteen and twenty-one years who cannot read and write, with such suggestions relative to the schools as they may think useful.—id. s. 19.

(1) They are now required to transmit a copy of their report to the superintendent of public instruction.—Laws of 1874, c. 43, ss. 3, 4; *post*, c. 8, ss. 13, 14. The act of July 7, 1874, (*post*, c. 33, ss. 18, 19,) requires a report of children between four and seventeen, in the town, or of children between five and fifteen that have not attended school. A new statute stating explicitly what the report must contain would seem advisable.

A table in the following form may be found convenient:

No. of District.	Summer and winter.	Names of Teachers.	No. of weeks of school.		
			Whole No. of Scholars.	No. in Arithmetic.*	No. between 4 and 14 who have not attended school.
1.	Summer.	Miss S. F.			
	Winter.	Mr. C. R. M.			
2.	Summer.	Miss A. E.			
	Winter.	Mr. J. C. G.			

* Similar columns for the other branches.

23. COMPENSATION. The school committee, upon satisfying the selectmen that they have attended to the duties and made the reports by law required, shall be entitled to receive such reasonable compensation as the town may determine.—id. s. 20.

24. SUPERINTENDENT. Any town, by a by-law, may provide for the election, in such manner as they think fit, of a superintendent of schools, who shall hold his office for such term, be vested with such of the powers and charged with such of the duties of the school committee and of the prudential committee, and be entitled to such compensation, as may be therein provided.—id. s. 18.

CHAPTER VI.

HIGH SCHOOLS.

ACADEMY, contract with, s. 15.	LOCATION, by commissioners, s. 12 (1).
COUNTY COMMISSIONERS may locate, s. 12 (1).	Not by school committee, s. 12 (1).
DISTRICTS FOR, how formed, ss. 2, 3.	PRUDENTIAL COMMITTEE, ss. 9, 11.
By vote of town or district, s. 2.	When selectmen shall appoint, ss. 4, 11.
By union of districts, s. 3.	SCHOOL-HOUSE for high schools, ss. 12, 12 (1).
Organization of, how effected, ss. 4, 4 (a).	SPECIAL STATUTES continued in force, s. 13.
HIGH SCHOOL COMMITTEE, ss. 7, 8.	RAISING MONEY for high schools, ss. 5, 6.
School committee to act as such, s. 10.	
LOCATION, by district, s. 12.	

1. **DISTRICTS FOR.** Districts for the support of high schools may be established in any town, which shall have the same powers and be subject to the same rules as other school districts, except so far as they may be changed by this chapter.—*Gen. Sts. p. 171, c. 82, s. 1.*

2. **BY VOTE OF TOWN OR DISTRICT.** Any town, by vote in town meeting or by by-law, and any school district having not less than one hundred children between six and sixteen years of age therein, by vote of two thirds of the legal voters at a legal meeting, or by a by-law adopted by the like proportion of voters, may determine to establish a high school, and shall thereby be constituted a high school district (1); and by a like vote such district may be discontinued.—*id. s. 2.*

(1) The article in the warrant for the district meeting may be:

“To see if said district will by a vote of two thirds of the legal voters at said meeting establish a high school;” and the vote may be: “Upon the — article in the warrant, it was moved and seconded that said district establish a high school; upon which motion twelve voted in the affirmative and six in the negative, and two thirds of the legal voters at said meeting voting in favor of said motion, it was adopted.”

3. **UNION DISTRICT.** Two or more school districts in the same or different towns, by concurring votes of two-thirds of the voters present at a legal meeting of each district, may unite in the support of a high school, and shall be a high school district (1). They shall nevertheless each retain their separate organization for the support of the common schools therein.—*id. s. 3, as amended by c. 7 of the Laws of 1869.*

(1) The articles in the warrants may be:

"To see if said district will by vote of two thirds of the voters of said district unite with school district No. —, in the town of —, in the support of a high school."

And the vote may be:

"Upon the — article in the warrant it was moved and seconded that said district unite with school district No. —, in the town of —, in the support of a high school, and with said district constitute the — Union high school district, upon which motion twenty voted in the affirmative and six in the negative, and two thirds of the voters of said district voting for said motion, it was adopted." "Voted, that the clerk be directed to certify the proceedings of this meeting to said district No. —."

4. ORGANIZATION. If two or more districts have voted to unite, an application should be made to the selectmen to appoint a prudential committee of the high school district; and this is the more prudent course, when a *single* district has voted to establish a high school, although in the *latter* case the appointment had better be given to the then prudential committee of such district. If two or more districts in *different towns* unite, the selectmen of the town in which most of the voters reside can probably appoint.—*Ante*, p. 13, s. 13.

(a) In calling the first meeting of the high school district (as there is no high school house), it is advised that a copy of the warrant be posted at the school-house in *each* district composing the high school district, and *also* in some other public place in such district.

5. MAY APPROPRIATE MONEY. Such town or district may, by vote or by-law, appropriate such part of the school money to which they are entitled as they think fit for the support of the high school, and the same shall be paid to the prudential committee of such high school district, or to the officer or agent of the town or district who is charged with his duties.—*id.* p. 182, s. 4.

6. ADDITIONAL SUM. Such town or district may, by vote or by-law, raise such sum, in addition to the school tax required by law for the support of such high school, as they shall think proper, which shall be assessed and collected as other school taxes, and paid over to the prudential committee or officer charged with his duties.—*id.* s. 5.

7. A HIGH SCHOOL COMMITTEE may be elected by such town or district in the same manner as school committees may be chosen.—*id.* s. 6.

8. DUTIES OF. The high school committee shall have the entire charge thereof, shall prescribe and ascertain the qualifications of the teachers, prescribe the course of studies, the books to be used, and the qualifications required for admission,

and generally shall have the same powers and perform the same duties in regard to such high schools as school committees in relation to common schools.—*id.* s. 10.

9. A PRUDENTIAL COMMITTEE of such district may be chosen, or the high school committee or any other officer or agent of such town or district may, by vote or by-law, be charged with the duties of such prudential committee.—*id.* s. 7.

10. IF NO HIGH SCHOOL COMMITTEE IS CHOSEN or appointed, the school committee of the town shall be *ex-officio* the high school committee of such district.—*id.* s. 8.

11. IF NO PRUDENTIAL COMMITTEE IS CHOSEN, and no person is charged with his duties, or if from any cause there is a vacancy in said office, the selectmen shall fill such vacancy as provided in the case of common school districts.—*id.* s. 9. See *ante*, p. 30, ss. 24-26.

12. ANY HIGH SCHOOL DISTRICT may purchase a suitable lot for their school-house, and in case the location of a school-house has been fixed (1) according to law, and the agents of the district cannot agree with the owner for the purchase of the same, the selectmen may lay out such lot, not exceeding half an acre, as in other cases.—*id.* s. 11.

(1) The county commissioners have jurisdiction, if at any meeting duly helden for the purpose the district does not agree upon a location or upon a committee to locate, and when twenty or more voters are aggrieved by the location.—Laws of 1870, c. 9.

The school committee cannot locate.—*id.*

13. SPECIAL STATUTES. All statutes heretofore passed applying to particular places or districts, relating to schools or the committees or officers thereof, now in force, shall remain in force until repealed, altered or suspended.—*id.* s. 12.

14. CONTRACT WITH ACADEMY. Any town or school district in this state is hereby authorized and empowered to execute such business arrangement (1) through its special committee, with the trustees of any academy, seminary or other literary institution situated within the limits of the town, as said district or town may approve by a two thirds vote of the legal voters present and voting at any legal meeting, due notice having been given; and the school money of said town or district may be used to carry out such contract. In case one of the contracting parties shall be a school district or union school

district, then the consent in writing of the school committee of the town shall be required before such agreement shall be in force.—Laws of 1874, c. 69, s. 1.

(1) It will be prudent to take the advice of competent counsel at the beginning, whenever such an arrangement is contemplated.

CHAPTER VII.

SCHOLARS.

ADULTS, s. 15.

CENSUS OF CHILDREN, ss. 18, 19.

COMPULSORY ATTENDANCE, s. 17.

FACTORY CHILDREN, ss. 11, 14.

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TRUANTS may be fined, s. 9.

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ss. 8, 9.

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1. FROM OUT THE DISTRICT. No person shall have a right to attend school, or to send any scholar to the school, in any district of which he is not an inhabitant (1) without the consent of the district or of the prudential committee.—Gen. Sts. p. 173, c. 83, s. 1. See *ante*, p. 19, s. 32 (1), p. 45, s. 12 (a).

(1) Children at the county poor-house are inhabitants so as to be entitled to attend.—*Brentwood School District v. Pollard*, 55 R. 503.

2. NO SCHOLAR WHO SHALL HAVE BEEN ASSIGNED to a particular school by vote of the district, or by the committee authorized by the district to assign the scholars to particular schools, shall have the right to attend any other school in the district until assigned thereto.—*id.* s. 4.

3. PENALTY FOR ATTENDING ELSEWHERE. If any scholar, after notice, shall attend or visit a school which he has no right to attend, or shall interrupt or disturb the same, he shall be fined for the first offence five dollars, and for the second offence he shall be fined ten dollars, or be imprisoned not exceeding thirty days.—*id.* s. 5.

4. NO CHILD UNLESS HE HAS BEEN DULY VACCINATED or has had the small-pox, is entitled to attend any public school ; and the prudential committee of the several districts, and those who exercise the powers of such committees, shall not allow any such child to be admitted to or connected with any such school.—*id. s. 2.*

5. ANY SCHOLAR MAY BE DISMISSED from school by the school committee for gross misconduct (1), or for neglect or refusal to conform to the reasonable rules of the school ; and shall have no right to attend the school till restored by the school committee.—*id. s. 3.*

(1) This may be out of school and school hours as well as in.—*Cush. 160.* See *ante*, p. 45, s. 12 (b).

6. ANY TOWN MAY MAKE BY-LAWS concerning habitual truants and children not attending school, without any regular and lawful occupation, between the ages of six and sixteen years, and to compel the attendance of such children at school, not repugnant to law ; and may annex penalties for the breach thereof not exceeding ten dollars for each offence.—*id. s. 10.*

7. SUCH TOWN MAY APPOINT three or more officers to enforce such laws, either of whom, and no other, may make complaint for such offences, and shall be authorized to serve any process relating thereto.—*id. s. 7 ; 10 Allen, 149.*

8. REFORM SCHOOL. Any offender against such by-laws, upon conviction, may, instead of such fine, be sentenced to the reform school for a term not exceeding one year.—*id. s. 8.*

9. COMMITTED FOR FINE. Any such offender, on conviction and sentence to pay such fine, may, in default of payment, be committed to the reform school till the same be paid or he is otherwise discharged ; but the court of justice imposing such sentence may at any time discharge such offender, on proof that he is unable to pay said fine, and has no parent, guardian, or person chargeable with his support, able to pay it.—*id. s. 9.*

10. SUCH OFFENDER SO CONVICTED MAY GIVE BOND to the town in the penal sum of twenty-five dollars, with sufficient sureties, approved by the court or justice before whom he was convicted, conditioned to attend regularly some district or other school kept in such town, for one term next ensuing, when the

same is kept, to comply with the regulations thereof, and to be obedient and respectful to the teacher; and his fine may thereupon be remitted by such court or justice on payment of the costs.—id. p. 174. s. 10.

11. FACTORY CHILDREN. No child under fifteen years of age shall be employed in any manufacturing establishment, unless he has attended some public school, or private day school where instruction was given by a teacher competent to instruct in the branches taught in common schools, at least *twelve weeks* during the year preceding.—id. s. 11.

12. NO CHILD UNDER THE AGE OF TWELVE YEARS shall be employed as aforesaid, unless he has attended school as aforesaid, at least six months during the year preceding, or has attended the school of the district in which he dwelt the whole time it was kept during the year.—id. s. 12.

13. PENALTY. The owner, agent or superintendent of any manufacturing establishment who shall employ such child without requiring a certificate, signed by the teacher of such school or prudential committee of the district in which it was kept, that such child has attended school as aforesaid, shall be fined fifty dollars.—id. s. 13.

14. THE SCHOOL COMMITTEE of every town in which any manufacturing corporation is located have power to enforce the foregoing sections (11 to 13), and all necessary expense arising from prosecutions instituted by them for this purpose will be audited and paid for out of the town treasury.—Act of July 7, 1869.

15. ADULTS. When a person over twenty-one attends as a scholar the master has the same authority over him as over others.—27 Maine, 266.

16. THE USE OF FORCE. The power of expulsion vested in the school committee does not take from the master the right to use force, if necessary, to maintain his authority, and he may call upon others to assist him.—27 Maine, 266, 279. See *ante*, p. 43, s. 8 (a), p. 45, s. 12 (c). Punishments inflicted must not be *excessive*.—id.; 32 Vt. 114.

17. COMPULSORY ATTENDANCE of children between the ages of eight and eighteen is enacted by chapter two of the

Laws of 1871, amended by chapter fifty-eight of the Laws of 1874, which may be found below (1). Without attempting to decide what the law now is, as to notices, the author respectfully calls attention to the necessity of some intelligible law upon the subject.

(1) *Section 1.* Every parent, guardian, master, or other person having the custody, control, or charge of any child between the age of eight and fourteen years, residing in any school district in which a public school is annually taught for the period of twelve weeks or more within two miles by the nearest traveled road from his residence, shall cause such child to attend such public school for twelve weeks at least in every year from and after the first day of September next, six weeks at least of which attendance shall be consecutive, unless such child shall be excused from such attendance by the school committee of the town, or the board of education or the superintending school committee of such district, upon its being shown to their satisfaction that the physical or mental condition of such child was such as to prevent his attendance at school for the period required, or that such child was instructed in a private school or at home for at least twelve weeks during such year in the branches of education required to be taught in the public schools, or, having acquired those branches, in other more advanced studies.

Sect. 2. The school committee of every town and the board of education or superintending committee of every district shall cause to be posted in three of the most public places in each school district under their supervision, or to be published in some newspaper printed in town three weeks successively, in the month of August annually, a notice of the provisions of this act, particularly calling the attention of parents, guardians, masters and others thereto. The necessary expense of posting such notice or making such publication shall be paid by the town or district whose committee incurs the same.

Sect. 3. Any parent, guardian, master, or other person violating the provisions of the first section of this act shall forfeit and pay the sum of ten dollars for the first offence and the sum of twenty dollars for the second and every subsequent offence, to be recovered in an action of debt in the name of the district within whose limits the penalty was incurred, by the school committee, board of education, or superintending school committee, having the supervision of the schools in such district, in any court of competent jurisdiction. All penalties recovered shall be paid to the district and added to the school money thereof.

Sect. 4. School committees, boards of education, and superintending school committees respectively shall sue for all penalties incurred under the provisions of the preceding sections; and any school committee, board of education, or superintending school committee, upon whom a written notice has been served by any taxpayer, stating by whom, when, and how any such penalty has been incurred, who shall neglect for ten days after the service of such notice upon them to institute a suit for the recovery thereof, unless such penalty shall sooner be paid without a suit, or unless upon investigation during that time, they shall be satisfied that no penalty has actually been incurred, shall forfeit and pay the sum of twenty dollars for each neglect, to be recovered by the selectmen of the town or the mayor and aldermen of the city in an action of debt, in the name of the town or city, in any court of competent jurisdiction; such penalty, when recovered, to be paid to the district in which the original penalty was incurred, and added to the school money thereof.

Sect. 5. This act shall take effect upon its passage. [Approved July 14, 1871.]

Section 1. Section two of chapter two of the pamphlet laws of 1871 shall be so amended as to read as follows: "The school committee of every town, and the board of education or superintending committee of every district, shall supply the prudential committee of every district with the notices provided, by this act, and it shall be the duty of said prudential committee to post and keep posted such notices, not exceeding three, in the most public places in such district, and the necessary expense of procuring such notices shall be paid by the town or district whose committee incur the same."

Sect. 2. This act shall take effect from its passage. [Approved July 7, 1874.]

18. CENSUS. The selectmen of each town, and the assessors of each city, shall annually, in the month of April, make an enumeration of the children of each sex between the ages of four and seventeen, in their respective towns and cities, and shall make a report of such enumeration to the superintending

school committee of their respective towns and cities within fifteen days after the completion of such enumeration.—Laws of 1874, c. 52.

19. COMMITTEE TO REPORT. The superintending school committee shall, in their annual report, state the number of children so reported by the selectmen or assessors, and the number of children of each sex between the ages of five and fifteen that have not attended school.—id. s. 2.

CHAPTER VIII.

NORMAL SCHOOL AND SUPERINTENDENT OF PUBLIC INSTRUCTION.

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1. BOARD OF TRUSTEES. The State Normal School as now existing is under the general management of a board of trustees, consisting of the governor and superintendent of public instruction and fifteen trustees appointed by the governor, with advice and consent of the council. Of the fifteen, one is appointed at large, two from each congressional district, and the others in such manner that each county has one and not more than two trustees in the board. Each is commissioned for two years from the date of his commission.—Laws of 1870, c. 6, ss. 1, 2; Laws of 1872, s. 1.

2. COMPENSATION. The original act provided that the trustees should receive no compensation for their services ex-

cept their necessary expenses, not to exceed three hundred dollars a year, and that the school should, otherwise than this, be established and maintained without expense to the state.

(1) There was appropriated \$8000 in 1871, \$8000 in 1872, \$3000 in 1873, and \$5000 in 1874, for buildings, &c., apparatus and the pay of teachers.

3. APPOINTMENT OF TEACHERS. It is made the duty of the trustees to select and employ a principal teacher, who shall be allowed, with the advice and consent of the trustees, to select and employ his own assistants, and provide for the discipline of the school.—Laws of 1870, c. 6, s. 5.

4. COURSE OF STUDY. The law requires the board of education, at each of its annual meetings, to appoint one prominent educator in the state, whose duty it shall be, in connection with the superintendent of public instruction and the principal of the normal school, to arrange two courses of study for the school.

5. WHAT TO INCLUDE. “One course of study shall include all branches required by law to be taught in the common schools of New Hampshire, and shall require for its completion at least one school year; the other course shall include all the branches contained in the first course, and higher (1) branches, and shall require for its completion at least two school years. The certificate of graduation shall be granted to all who pass the required examination in the first course, or in both courses.”—Laws of 1871, c. 6, s. 6.

(1) This is perhaps somewhat modified by s. 5 of c. 5 of the Laws of 1872, which is as follows: “The work of instruction in the normal school shall be confined to such branches of study as are really needful to prepare the pupils for teaching in the public schools of the state, and shall not be extended beyond the course of study usually pursued in other well established and well managed normal schools.”

6. CERTIFICATES OF GRADUATION from the lower course have the effect of licenses to teach in the common schools in the state for three years from the date thereof; and certificates of graduation from the higher course the effect of license to teach in such schools for five years from the date thereof; but they may be revoked “for cause shown.” A certificate of graduation “shall be granted to all who pass the required examination in the first course, or in the second course.”—Laws of 1870, c. 6, ss. 6, 7.

7. EXAMINATIONS for admission to the school and for grad-

uation are under the control of the persons whose duty it is to prescribe the course of study.—*id. s. 6*; *s. 4, ante*.

8. ANNUAL REPORT. The board of education shall, in their annual report, state the condition of the school, the terms of admission and graduation, and the time of the commencement of sessions; and shall cause to be printed on the cover of the school register a statement of the terms of admission and graduation, and the time of commencing sessions.—*id. s. 8*.

9. TIME REQUIRED. The school shall be in session for the special purpose of drilling common school teachers, at least twenty weeks during each year.—*id. s. 9*.

10. MEETING OF TRUSTEES. There shall be held at least one meeting of said trustees in each year, when it shall be the duty of all to be present; at which, or at some meeting attended by at least ten of the trustees, they shall appoint committees of their board to have the oversight of the several departments of their work; and such committees shall be held specially responsible therefor.—*Laws of 1872, c. 8, s. 5*.

11. SUPERINTENDENT OF PUBLIC INSTRUCTION. The governor and council shall appoint a superintendent of public instruction, who shall hold his office for the term of two years, and shall have general supervision and control of the educational interests of the state.—*Laws of 1874, c. 43, s. 1*.

12. HIS DUTIES. The superintendent of public instruction shall prescribe the form of register to be kept in the schools, and the form of blanks and inquiries for the return to be made by the school committee, and seasonably send the same to the clerks of the several towns and cities for the use of the several school committees therein; and shall receive, preserve or distribute all state documents in regard to public schools or education, and receive and arrange in his office reports and returns of school committees; shall investigate the condition and efficiency of the system of popular education in this state; shall pursue such a course for the purpose of awakening and guiding public sentiment in relation to the practical interest of education as may seem to him best and the nature of the duties of the office will permit; and shall annually, on or before the third Wednesday in June, lay before the general

court a printed report, containing such a concise abstract of the returns of the school committee as he may deem useful, a detailed report of his own doings and the condition and progress of popular education in the state, and such suggestions and recommendations in regard to improving the same as his information and judgment may dictate; and shall discharge such other duties as may be assigned him by law.—*id. s. 2.*

13. REPORTS TO BE MADE TO HIM. The school committee of each town shall, before the first Wednesday of April, annually transmit to the superintendent of public instruction a copy of the report by them presented to the town at its annual meeting, and answers, according to forms provided, to all such questions as may be proposed by said superintendent of public instruction, relating to the appropriations of school money received, the studies pursued in the schools, the methods of instruction and discipline adopted, the condition of school-houses, and any other subject relating to schools.—*id. s. 3.*

14. PENALTY FOR NEGLECT. The school committee of any town who shall neglect to make the return aforesaid, agreeably to the preceding section, shall be fined not exceeding fifty dollars.—*id. s. 4.*

15. HIS REPORT TO BE DISTRIBUTED. The superintendent of public instruction shall procure, under authority of the secretary of state, and at the expense of the state, four hundred copies of the report to be printed, and lay them before the general court, to be disposed of at their discretion, one hundred copies for the purpose of exchange with other states and for distribution among the friends of education, and one additional copy for each town, ward, and incorporated place having ten legal voters.—*id. s. 5.*

16. HIS SALARY AND EXPENSES. The superintendent of public instruction shall receive an annual salary of twelve hundred dollars in full for all the duties required by this act, and such additional sum for postage, stationery, and office expenses as the governor and council may deem reasonable; and shall occupy as an office such portion of the state-house as the governor and council may deem expedient.—*id. s. 6.*

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